

# **Is the European Commission an engine for climate policy expansions in the EU?**

*A study of intergovernmental and  
supranational influences in European  
emissions trading*

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## Abstract

Over the last decade the European Commission has started up a process, ending with a considerably expanded area of its competences related to the governance of the European Union Emissions Trading Scheme (EU ETS). These changes will become fully visible from 2013 through ETS 3. Meanwhile, before this important change to the scheme, smaller adjustments have been made also for the second period of trading with emissions allowances (ETS 2). Here the Commission has harmonised the model for setting the overall cap-level of emissions for the member states. This started up centralisation process, that finally commenced in the harmonised ETS 3, has contributed to considerably higher levels of vertical integration in EU emissions trading. In this thesis I investigate how this process towards the Commission competence expansion best can be understood.

Applying the intergovernmental perspective, I find that the member states were able to uphold a decentralised approach over the setup phase, ETS 1. There were mixed opinions over the introduction of emissions trading in Europe. Once the system had been set into force the Commission was important in providing with credible commitments for the states. It was requested that changes would happen to make ETS 2 and 3 more successful, and the Commission responded to this by expanding its field of competences. The Commission has over the period studied moved within an overall member state supervision and consent in expanding its tasks. New institutionalism give grounds for partly conflicting, partly complementing results. The analysis in light of the institutional perspective shows that the Commission has behaved as a policy entrepreneur throughout the period studied. It was planned at an early stage how the scheme would over time be more centralised, and in accomplishing this the internal Commission institutional capacities and feedback mechanism has been important. In fact, the institutional workings of the Commission has been decisive for that ETS from 2013 will be reinforced as the solely *European* measure it was meant to be from the beginning.

## Acknowledgements

With the last word written in this project my life as a student comes to an end. The questions examined in this study caught my attention a year and a half ago during my study exchange in Aarhus, and this resulted in the following investigation. This master thesis and my five years of studying have been both challenging and greatly developing for me as a person, and it is both with happiness and a strange feeling of sadness I write these words. In this regard there is however a few persons I would like to thank.

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The responsibilities for possible misinterpretations and errors rest solely with the author.

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## List of Abbreviations and Acronyms

<b>BEST</b>	Bureaucrats for Emissions Trading
<b>CAP</b>	The total ceiling of emission allowances to be allocated during one trading period of the EU ETS
<b>CCC</b>	The Climate Change Committee
<b>CO<sub>2</sub></b>	Carbon Dioxide
<b>COP</b>	Conference of the Parties
<b>DG</b>	Directorate General
<b>DG CLIMA</b>	DG Climate Action
<b>EC</b>	European Community
<b>ECCP</b>	European Climate Change Programme
<b>ECJ</b>	European Court of Justice
<b>EEA</b>	European Economic Area
<b>EFTA</b>	European Free Trade Association
<b>EU</b>	The European Union
<b>EU ETS</b>	European Union Emissions Trading Scheme
<b>ESA</b>	EFTA Surveillance Authority
<b>GHG</b>	Greenhouse Gas
<b>NAP</b>	National Allocation Plan
<b>UNFCCC</b>	United Nations Framework Convention on Climate Change

# 1. Introduction

The European Union (EU) has undergone profound changes since the signing of the Treaties of Rome in 1957. From its foundation, the EU has changed and developed into a more or less supranational Union consisting of 27 member states, and with a considerable institutional framework at hand. The European institutions and its workings are dynamic, and subject to continuous changes happening either incrementally, or through more comprehensive reform of the institutional system. Climate and environmental politics has, over the years, developed into an important policy field where the EU contributes to significant improvements in environmental standards at member state level. This study will go into the expansions over the European Commission's (Commission's) competences in one central climate measure, the European Union Emission Trading Scheme (EU ETS).

The EU ETS is an economic measure introduced in the European Community (Community) in order to reduce climate gas emissions. The scheme became operational in 2005, and the first trading period (ETS 1) lasted until 2007. We are now currently in the second period (ETS 2), spanning from 2008-2012. There will in the period 2013-2020 be introduced a revised emissions trading system, called ETS 3. From the first via the second to the third trading period, the division of power between the member states and the European level has changed. For the coming phase, ETS 3, the Commission has taken on considerable higher levels of competences compared to the setup phase, with the consequence that state sovereignty has been lost to the Commission. How can this change in practice, where the main European executive power has expanded its role and contributed to higher levels of vertical integration<sup>1</sup> in climate governance<sup>2</sup>, best be perceived? Is it the result of mainly intergovernmental influences, or should it be viewed as happening due to a change of practice taken on by the Commission itself, largely outside the control of the member states? If the main influence for deeper collaboration in the ETS can be concluded to come from the Commission, this would imply increased influences from the EU-level at the expense of the member states and explanatory factors for this will be important to unravel. The process leading to the Commission task expansion constitutes the founding puzzle for this study.

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<sup>1</sup> Higher levels of vertical integration imply that competences are increasingly being delegated to the autonomous supranational EU-institutions, or shared across EU member states (Schimmelfennig and Rittberger 2006: 74).

<sup>2</sup> The concept of governance will be defined as a process where the Commission makes important decisions and determine who they involve. This includes both process-oriented and administrative elements of governing, in addition to the authority to make and enforce rules in a given social setting (Inderberg and Eikeland 2009: 437, Stone Sweet et al. 2001: 7).

The autonomy of the Commission remains to a great extent unexplored, and this makes it interesting to assess the role of the Commission in the ETS (Trondal 2007: 962). Bringing the focus over to the Commission can be argued to be of high relevance, given its position ‘at the heart of the Union’, and the pivotal role it occupies as core European executive (Nugent 1997, Trondal 2007: 961). It is likely that a substantial competence expansion in the Commission can have broader implications also for other EU-institutions and the Union as a whole.

The principle of emissions trading gives European industry installations part of the scheme the possibility to trade with greenhouse gas (GHG) emission allowances. A certain amount of quotas is handed out to industry during a trading period. If an installation is able to reduce emissions, it can sell quotas, and if emissions exceed the given amount of allowances it has to buy quotas. In this way a European market for carbon is created. The goal with the ETS is to bring down emissions and provide incentives to a shift towards more renewable energy sources.

In relation to climate gas reductions, it has often been argued that the European organisational capacity lacks the sufficient strength to meet the challenges at hand, and that further changes to the institutions are necessary (Olsen 2010: 4). Based on this, I find it important to focus on the main executive power in European climate politics. Will the expanded ETS 3 show indications of the Commission facing the challenges of climate change by increasing its institutional capacity at the expense of the member states? There has over some time been concerns among the member states about a loss of sovereignty, and the potential increase in the powers of the Commission related to the governance of European climate change policy (McCormick 2001: 284). Has this lead the member states to remain in control of the Commission’s workings in emissions trading?

## 1.1 EU Emissions Trading

How can development and expansions of competences in one European institution be measured and gauged? The increasingly central and important role of the Commission in ETS 3 has been characterised as 1) representing “*probably the most radical development in the energy and environmental policies of the EU and its Member States since the founding Treaties of the European Community*” (Carbon Trust 2008: 2) and 2) as profoundly reforming the division of power between the EU and the member states (Carbon Trust 2008: 17). The development in emissions trading studied in this thesis will be argued to belong to new modes



of operating procedures in the field of climate policies. In this, the main focus of the Commission has shifted from expanding environmental and climate policies to new policy measures, towards a more inclusive, open and less opportunistic *modus operandi* (method of proceeding). With this the Commission's priorities has changed towards a managing and governing of climate policies. This shift in methods of operation in the ETS has been made possible for the Commission as the legal and political basis of EU policy has become more secure. As a result of this, DG Environment<sup>3</sup> has over the period studied, been in a situation where opportunities has been exploited and institutional niches made part of their own in order to make the ETS thrive (Benson and Jordan 2010: 364).

However, before the increase in competences and the changes to European emissions trading governance can be analysed, I believe it is important to isolate some founding events for the task expansion happening in the Commission, as a prelude to the treatment of the dependent variable outlined in the next sub-section. In chapter 3 and 4, this background and definitions, will be elaborated upon and applied to the case under study. The process leading to changes in the distribution of authority between the Commission and the member states can shortly be traced in the following way (Skjærseth and Wettstad 2010a: 314):

From the first Commission proposal of the ETS Directive in October 2001, to the formal adoption of the Directive in July 2003 by the Council of the European Union (Council), the Commission's role has been described as one of a policy entrepreneur<sup>4</sup>. The Commission is the main coordinator of the ETS, and the scheme was initiated by the Commission mainly as a response to the Kyoto Protocol negotiated in 1997 through the United Nation Framework Convention on Climate Change (UNFCCC) (Boasson and Wettstad 2010: 8, Skjærseth and Wettstad 2008a: 183). After a largely unsuccessful first trading period that stood out to threaten the whole system of trading in emission allowances, the system was revised for ETS 3 and the Commission increased its competences considerably compared to the first phase. However, before these comprehensive changes to the third trading period will be set forth,

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<sup>3</sup> DG Climate Action (DG Clima) was formed in February 2010, and is the administrative part of the Commission responsible for the ETS. This means that most of the empirics in this thesis dates back to when climate action was a part of DG Environment. Thus, in order to avoid confusion I will from now mainly use DG Environment when referring to the work done inside the Commission services related to climate governance.

<sup>4</sup> The concept of a policy entrepreneur in this study implies the following definition: "A *policy actor who seeks to exploit favourable political conditions in order to promote a particular initiative or policy.*" (Bache and George 2006: 586).

smaller adjustments in the Commission's role in ETS 2 has been made, among those the cap-setting model<sup>5</sup>.

Central to the ETS are the setting of a cap, the allocation of emission allowances<sup>6</sup> and the formulation of National Allocation Plans (NAP's). During the first period the model for cap-setting was fundamentally decentralised<sup>7</sup>. Experience with this showed that the decentralised governance structure contributed to excessive allocation of emission allowances, and correspondingly low prices on carbon (Skjærseth and Wettestad 2010a: 317). As a result, the Commission foresaw the need to revise the methods for deciding on emissions ceilings, and for ETS 2 the Commission thus did away with member states setting their own cap-levels, contributing to a first step in the harmonisation of the ETS.

In January 2007, a larger process on the reform of the ETS as part of the European Climate and Energy Package was initiated. Based on this, the Commission in January 2008 formally proposed a revised ETS for the post-2012 period. This was finally adopted together with the Package in December 2008. For the third trading period, the scheme has been changed in some fundamental manners, and the result is a much more harmonised system with "*common rules for most aspects*" (Boasson and Wettestad 2010: 8). The ETS and the Commission's proactive role in the process leading to the competence expansion will be investigated in the following.

My dependent variable can thereby largely be isolated to the revisions of the ETS in 2008, together with the changes made to the cap-setting model in 2006, and the early phase of the task expansion prior to the start up of ETS 1. The main developments in the scheme focused upon in this thesis is summarised in figure 1. Why then is it interesting to study this harmonisation and the role of the Commission through policy proposals and revisions of the 2003 ETS Directive? I will return to this in greater detail below, but a few preliminary remarks can be made. The policy output coming from the Commission will largely be reflected in the changes made to the Directives, other relevant policy documents and the process surrounding this. A core argument in this thesis is that the decision-making process

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<sup>5</sup> The cap-setting model is central in the implementation of ETS. In this important allocation decision the total number of allowances for each member state in the trading period is determined (Zapfel 2007: 17).

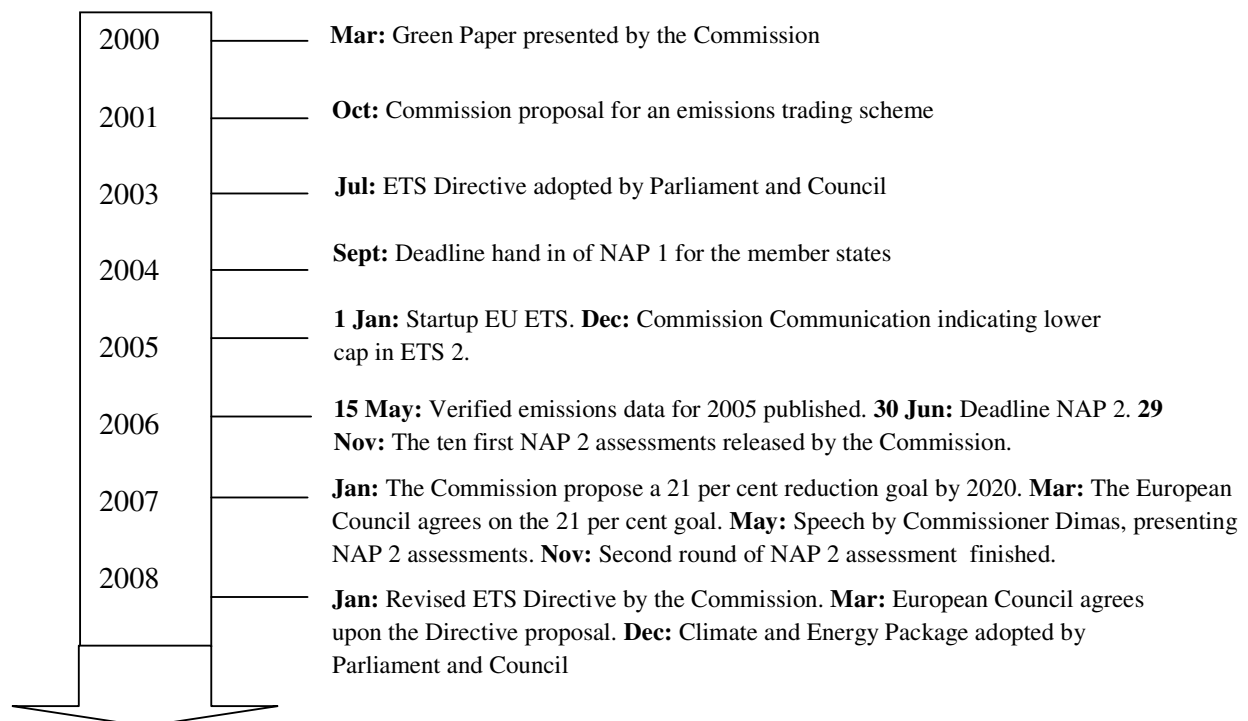
<sup>6</sup> Allocation of allowances is the process where emissions allowances are distributed to industry installations, companies or industrial sectors part of the ETS. The allowances are distributed for free, for payment, or a combination (Skjærseth and Wettestad 2010b: 103).

<sup>7</sup> When a system is decentralised the implementation through the cap-setting and the formulation of national allocation plans (NAP's) are both formally in the hands of the member states.

related to ETS can alter the distribution of power between the member states and the European level, and it is assumed that the ETS can be seen as an important policy device for the Commission (Kerremans 1996: 225).

A relevant question to ask is then, where do the influences come from and how are the decisions made? Accordingly, does the data support intergovernmentalism or supranational institutional influences? In studying this we might learn more about the dynamics of change in EU policy-making, and how new modes of operating procedures in climate politics might support this. Does this imply a transformation of executive politics in Europe for the field of emissions trading? Or do the influences come from intergovernmental forces to such an extent that the development in emissions trading can be neglected as a result of institutional influences, and a Commission empowering of its capacities at the expense of the nation states?

**Figure 1: Basic steps in the European Commission task expansion in the EU ETS**



## 1.2 The study of European Commission competence expansion

This sub-section outlines an understanding of the concepts of *competence and task expansion* part of the dependent variable *European Commission task and competence expansion in the EU ETS*. The dependent variable constitutes the target of the study. Explaining it is the overall focus of this thesis. The concept of competence expansion in one European institution can be understood in several different ways, and it is therefore important to specify the theoretical underpinnings of the process of increasing competences taking place inside the Commission, as a supplement to the case specific task expansion.

In line with Pollack (1994: 96), I choose to understand the process of competence and task expansion as the development and growth of policies, in policy areas newly introduced in the Community. My case is treated as an increase in Commission competences in a policy measure that already exists. Thus, my aim is to explain the process leading to the task expansion, and the implications and effects of the expansion will not be analysed *per se*. The term of tasks is here referred to the gradual taking over of national allocation plans, setting a common cap for all countries and the allocation of emissions allowances. The role of the Commission in the ETS is moreover understood as changing the emissions trading *system* and not the *Commission organisation* itself (like internal power distribution and staffing e.g.). It is therefore the process leading to expansions in the listed competences that will be investigated.

The main focus in this paper is the shift where basic competences to govern the ETS have gone from being in the hands of the member states, to the Commission. The degree of harmonisation in the ETS comprises the distribution of competences between the European institutions and the member states. If a substantial amount of competences is held at member state level, this provides the states with autonomy to put their own interest first (Skjærseth and Wettstad 2008a: 13). Reversely, if the system is characterised by centralisation, it is the supranational level which obtains more competences and tasks. Higher vertical integration is understood as being facilitated by the Commission enhancing its working methods in climate policies. The Commission's methods of proceeding will be assessed according to the following criteria:

- Whether the Commission's modes of procedures in ETS decision-making has changed from 2000 to 2008

- If the harmonisation has lead to a more transparent process for the Commission's workings, focusing on improving the scheme

The Commission is the main executive body in the EU, and it holds the power to release new policy proposals within the Union. This makes the institution equivalent to a traditional nation state government. Despite this, there are a few constraints on the Commission that prevail it from enjoying full executive powers. Among other things the institution is not responsible to the European Parliament (Parliament), in the same way as we know it from a nation state. The Commission is hierarchically divided into different layers of actors, with the College of Commissioners (responsible for different policy areas) and the Commission President at the top. I will in this study concentrate on both the administrative (divided into different Directorates Generals (DGs)) and political parts of the Commission, although the main focus will be on the workings of the Commission administration (Egeberg 2010: 133).

If these treatments of the Commission competence expansion and its method of proceedings constitute the basis for a study of the ETS, what indicators can then be utilised in order to measure the process? Looking at documents coming from the Commission and results from interviews with different actors familiar with the process under study, tendencies and statements provided will be analysed. If it can be found that the Commission is continuously gaining new competences at the expense of the member states over the period studied, this will act as an indicator of a Commission competence expansion. The influence from the member states will be analysed in order to investigate their role in the expansion process.

In sum, I choose to understand the Commission competence expansion as the take-over of tasks related to the governing of the scheme. The institutions method of proceeding will be investigated in relation to elaborations on the Commission institutional workings. Additional empirical indicators and delimitations made to the study will be discussed in greater detail in the methods section.

### 1.3 Analytical approach

Based on the introduction, the research question can be formulated as: *How can the competence expansion of the European Commission from EU ETS 1 to 3 best be understood?* Is this through a new institutional and intergovernmental perspective? The theoretical

perspectives outlined in the next chapter will form the basis for understanding the Commission's role and influence in the development of European emissions trading. My aim in this thesis is not to test theory, and my case is not treated as a critical case. Rather, I will use the framework to shed light upon the developments and facilitate the explanation of it. As a result of this, the hypotheses are simple. They are formulated as general statements and do not go into details over the developments in the scheme. From the choice of the two explanatory perspectives I will investigate:

- *If the member states changed their opinions and preferences regarding the degree of harmonised approach in the EU ETS, and thereby influence the European Commission to expand its competences in cap-and-trade?*
- *If the European Commission institutional forces have driven forward changes and centralisation in the EU ETS in a pro-active manner, at the expense of member state influences?*

In approaching these main questions, I will apply a theoretical interpretative case study. Based on what I wanted to study, and deducted from the research question, this led to the choice of research methodology. My research question require me to go in depth on the empirical material and one specific policy process, and consequently the case study approach was found to be the most suitable. The data material will be presented, where Commission policy output and influences from the states will be the main independent variables used to explain the process. Will this provide me with valid and reliable conclusions over the main European executive's role in the most important policy devise created in order to reduce climate gas emissions in the Community?

## 1.4 Outline of the thesis

Chapter 2 presents the theoretical framework of the thesis. This includes the two theories treated in a complementary manner. The independent variables and hypotheses will be derived from the two theories which moreover guide the empirical research. Methodological considerations constitute the second part of the analytical framework. Chapter 3 presents the empirical material gathered on the dependent variable. The focus of this chapter is on establishing an overall baseline from which the bulk of the research question will be elaborated upon. In chapter 4 the analysis is brought in. The research question will be

addressed based on the empirical findings in chapter 3, and it is discussed to what degree the explanatory variables can shed light upon the changes found on the dependent variable.

Chapter 5 sums up the study with a conclusion and a look forward.

## **2. Analytical framework: Theory, hypotheses and methodology**

This chapter outlines the analytical framework of the study. In the first and second sections, the theoretical perspectives used to explain the competence expansion is elaborated upon, followed by a summary. The third section presents the methodological considerations of the study.

The policy process related to the centralisation of the EU ETS can be evaluated according to several criteria. During the last decade, many different studies of the ETS has been conducted, some of them which will be touched upon here. Most approaches have focused on the ETS in terms of effectiveness of the system, others have focused on technical aspects as well as backgrounds for introducing the measure, like Ellerman et al. 2007; Skjærseth and Wettestad 2010a. Wettestad's (2009) study focus on the centralisation of ETS and the belonging changes introduced in the third period of trading. Questions are asked if this implies a move towards centralised governance in European climate policy (Wettestad 2009: 311). What will differ from Wettestad's approach and this study is my exclusive focus on the Commission's role. My aim is to explain European executive authority competence expansion by applying institutional theory together with intergovernmentalism. Rather than a focus on understanding overall changes in governance, how this can be explained and bringing in the international level as an own analytical level, I will isolate one aspect of this, namely the Commission competence expansion. Finally, I will go into depth on the process concerning the setup the scheme and the changes made to the cap-setting model in ETS 2, as well as the revision of the scheme for ETS 3. My study however to some extent builds upon and develop Wettestad's study further.

### **2.1 Explaining European Commission competence expansion**

This study follows a complementary theoretical research strategy. In a complementary perspective the focus is on what the perspectives jointly can explain when analysing a research question. Thereby, with the right combination of theoretical perspectives at hand, this will enable me to understand the phenomenon I wish to explain (Hatch 2001: 22). The opposite of a complementary approach is a competing perspective. In a competing strategy a choice is conducted between different theories based on their explanatory power (Roness 1997: 103). It is my expectation that the developments under study here will be covered both



broadened and deepened by applying two theories. EU-politics is growing increasingly complex, and theoretical models vary in what their focus of explanation is. Accordingly, drawing on a complementary perspective, I hope to overcome some of these challenges and get a more thorough picture of the case. No single theoretical approach can account adequately for every development in the area subject to study here, hence both intergovernmental and institutional theory will be applied (Egeberg 2004: 199). Critical remarks to challenges in combining theory will be further discussed in sub-section 2.1.2.3.

In order to approach the research question, a set of explanatory factors will be constructed that will help clarify the competence expansion happening inside the Commission. Firstly, a rational intergovernmental perspective will be brought in, and secondly a new institutional approach will be employed. Hypotheses and expectations will be derived from theoretical postulates. It has, in the development of the analytical framework, been important to choose explanatory variables that provide the best possible understanding of my case. Finally, concerns over scope and simplicity places some restrictions on the number of hypotheses formulated, this will be made clear in the following.

## **2.1.1 The rational intergovernmental approach**

### **2.1.1.1 Member states as the main actor in intergovernmentalism**

Intergovernmentalism focus on explaining why further integration in the EU takes place, and the main emphasis is centred on the role of the member state bargaining's at the level of the EU-institutions (Keohane and Hoffman 1991: 17). The member states are considered the most important actors in the process of EU policy formation and the European institutions are fundamentally created by the member governments, in order to secure negotiations between the states (Pollack 1996: 429). According to Hoffman and other scholars of intergovernmentalism, the national governments are without comparison the most powerful actors in European integration. Government authorities may agree to deepen the levels of cooperation in policy areas of a more technical nature, as long as the integration does not spread to areas of 'high politics' (Bache and George 2006: 12). According to intergovernmental postulates it is the states that firmly guide the work and control the deeper levels of vertical integration in the ETS: "*where the power of supranational institutions increased it did so because governments believed it to be in their national interest*" (Bache and George 2006: 13).

Intergovernmentalism is based on a rational choice logic where, following this argumentation, the member states are basically seen as rational actors operating in an international environment. States derive their interests from considerations over their relative position in the state system (Rosamond 2000: 131). Implicit in this assumption, the member states will form the integration process at their will. It is central that the collaboration at EU level is of benefit for the strongest member governments, and each state in the Union seeks to maximise its own advantage (Pierson 1996: 124). If the most powerful states disagree on a matter, it is less likely that an agreement will be reached. Rather than being an institutional level that can function according to its own will and agenda, the EU is preserved only as long as it provide with economic utilities for the states. The EU is essentially a forum for interstate bargaining and strategic interaction, where the European member states will be mostly concerned with protecting their national interests (Pierson 1996: 124). The assumption of rationalism is an important foundation for intergovernmentalism, and it provides this theoretical approach with distinctive assumptions when it comes to the roles of the member states and the EU-institutions in the European political space.

The task for the EU-institutions is, according to intergovernmentalism, to provide an arena where transaction costs in bargaining's over collective problem-solving are minimised. An important point in this is that the control over the institutions remains firmly in the hands of the member states that once built the institutions. Scholars of intergovernmentalism would moreover describe the Commission as an institution that is primarily reactive in that it responds to pressure from external actors (Martens 2008: 646), and one would have to turn to the intergovernmental European Council and the Council in order to find proper explanations for policy-making. Therefore, the role of the Commission in ETS will to a large degree be limited to the will of the member states. The EU-institutions do not develop any significant agenda on their own, and there is nothing special about the European project compared to international cooperation more generally, other than the highly institutional form that has developed since the 1950s (Cini 2010: 89).

Ascending from its intergovernmental forerunner, Moravcsik later formulated the liberal offspring of the traditional intergovernmental approach. Liberal intergovernmentalism developed from the early 1990s and is today commonly held as one of the most important accounts of the European integration process (Cini 2010: 96). In liberal intergovernmentalism a liberal theory of preference formation is combined with the theory of intergovernmentalism.

According to Moravcsik (1998: 18) “*European integration can best be explained as a series of rational choices made by national leaders. These choices responded to constraints and opportunities stemming from the economic interests of powerful domestic constituents, the relative power of each state in the international system, and the role of international institutions in bolstering the credibility of interstate commitments.*” Here we see how importance is placed on national interests in the member states, and the EU-institutions importance in providing with credible commitments for the national executives. Competition between opposing preferences among domestic groups leads to national preference formation which at the next step is taken to the EU bargaining table. In fact, the domestic actors exert influence to the EU-level only through the domestic political structures of the states (Pierson 1996: 124). When it comes to the driving forces for further collaboration in the EU, and thereby the empowering of supranational organisational capacities, it is accepted in liberal intergovernmentalism that the Commission plays an important role in pillar 1 policies<sup>8</sup> (where environmental law is included). Even so, the authority exercised in relation to setting the agenda and monitoring implementation in climate change policies is only a power derived from the member states (Egeberg 2010: 128). Based on this, we see here that in liberal intergovernmentalism the Commission is yielded with somewhat more power in EU politics compared to intergovernmentalism, but it is still strictly delegated and dependent upon the will of the member states.

Following the argumentation of liberal intergovernmentalism, it is through an understanding of domestic politics that the important foundations for explaining which agreements are reached at EU-level are found. Community settlements are often characterised by a lowest common denominator among the most powerful member states (Moravcsik 1993: 481). Moreover it is the treaty negotiations that push the integration forward. In fact, “*all decisions made by the EU are ultimately the result of bargaining amongst states.*” (Cini 2010: 97) For the purpose of this study, it is important to emphasise that the member state level is the forerunner for the position the states bring with them to the European level, and economic concerns have to converge among the countries in order to deepen integration. National preferences determine what interests that eventually will arise at the supranational level of

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<sup>8</sup> The EU is divided into three pillars. The second and the third pillars are mainly intergovernmental in decision-making. Pillar 1 (the EC pillar) is much more supranational in its quality. The Commission here possess the exclusive right of legislative initiative. However, policy in the EC pillar is now increasingly emerging as a result of interaction among a number of institutions and actors, the most important being ‘the institutional triangle’ (the Commission, the Parliament and the Council) (Cini and Borragán 2010: 8).

European cooperation. This theoretical description will, in line with my aim in this paper, be utilised as a basis for an investigation of the member states influences in the Commission decision-making process in the ETS.

To sum up, I will in the following investigate whether it is the member states together that constitute the most important influence over the competence expansion happening in the Commission. Questions should therefore be asked if the harmonisation of the scheme actually happened at the will of the member states or not. Postulates part of liberal intergovernmentalism will not be applied in full scope, but national preference formation is considered important for a thorough understanding of the voice and influence coming from one of the undoubtedly most important actors in European climate policy; the member states.

#### 2.1.1.2 European Commission competence expansion as a result of rational member state influences

How can the two intergovernmental perspectives explain a competence expansion and an increased take-on of tasks happening inside the Commission? As described above, the supranational Commission is being credited with little or no significant influence initiated in its own right, over outcomes of bargaining at EU-level (Pollack 1994: 100). The Commission is in this way “*an arena permeated by national interests.*” (Egeberg 2010: 128). Except for the Council and the European Council, the EU-institutions do not have any autonomous role of importance when it comes to reforming the EU ETS. Task expansion and a “take on” of competences related to managing the ETS should therefore be seen as dominated by nation state influences. Looking at the document material and analysing the interviews, it will be searched for influences from the nation states and whether this has been of importance for changes and revisions made to the ETS. To what extent will tendencies in documents and interviews show that the changes made to emissions trading were the result of intentional design coming from the most influential member states? Or, as opposed to this: To what degree can the changes and revisions made to the ETS be found to be only of a ‘technical nature’, and thus not a significant policy area where national executives aim to firmly keep control over the developments taking place? Which role do I find that intergovernmental member state forces play in the process of centralising the ETS? These are central questions in relation to the empowering of organisational capacities that have taken place, based on the rational intergovernmental approach.

Since the scope of the investigation is limited to only studying the Commission and the changes that has happened to ETS, member states influence for change will for the most part be looked upon in relation to the workings of the Climate Change Committee (CCC), in addition to influences coming from the heads of states in the European Council. The CCC is the Regulatory Committee of the ETS and consists of member states representatives. It is part of Comitology in the Union, a procedure with delegated legislation where committees for specific policy areas assist the Commission in implementing legislation in the member states. The main function of the CCC is to be a forum for Commission discussion with the national governments before implementation measures are adopted (Egeberg 2010: 138). Comitology thus mainly treat questions of a more technical nature. Still, many important decisions are taken in Comitology, and related to a study of the Commission's increased competences their influence is therefore understood as important.

The Commission has no significant agenda of its own when faced with new policy areas of importance for the member states. If it had it would, according to intergovernmentalism, be expected that the member states would withdraw from the process. Important changes to the ETS are then mainly expected to happen under the will and control of the governments. This results in the following two hypotheses:

*H1: The increased harmonisation in EU ETS 2 and 3, seen through an expansion of the European Commission tasks and competences, was dominated by intergovernmental member state influences.*

*H2: It is the member states that framed the overall agenda of changes made to emissions trading, and it was part of their preferences to centralise more tasks to the European Commission. The European Commission plays an important role in the expansion of the EU ETS but the power springs out from the member states.*

## **2.1.2 New institutionalism**

Transformations and changes to policy-making that take place in Europe today pose some interesting challenges to studies of institutional<sup>9</sup> dynamics (Olsen 1992: 261). By applying a 'new institutional' perspective as it is developed by March and Olsen (1989, 2005) and Olsen

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<sup>9</sup> For the purpose of the new institutional approach I choose to see institutions this way: "Political institutions are collections of interrelated rules and routines that define appropriate action in terms of relations between roles and situations." (Peters 2005: 29).

(1992, 2007, 2010) this will provide with a complementary understanding to the intergovernmental approach of the Commission's competence expansions. Since the early 1990s the institutional approach has seen a proliferation, and is today a commonly held understanding of EU policy and integration processes (Aspinwall and Schneider 2000: 2).

Political institutions like the ones part of the EU are not static; they change and adapt to continually shifting challenges and contexts (Sverdrup 1999: 244). One fundamental assumption that forms the basis for my institutional perspective is that political and administrative phenomena like the supranational competence expansion studied here can not be adequately described or explained without taking into account the structuring effects of the EU-institutions (Olsen 1992: 250). Institutions take on a life of their own in the making of European politics and this leads to one fundamental assumption part of all branches of institutional theory, namely that *institutions matter*. According to Olsen (2010: 7) "*The organisation of political life makes a difference, and priority is given to examining the possible independent role and explanatory power of formally organised institutions.*" Here we see that, in line with my aim for brining in institutionalism, emphasis is placed on the internal explanatory power of political institutions for the study at hand. In addition to assuming central influence of the main European executive institution I will also be concerned with to what extent, under what conditions and through what processes the Commission made a difference for the steps in the development of the ETS (March and Olsen 2005: 9).

#### 2.1.2.1 Supranational institutional empowerment

The Commission's role in the harmonisation of the ETS can be argued to be of an autonomous character, commencing in the system revision in 2008 (Olsen 2007: 3). The behaviour of actors inside the Commission is driven forward by structures, processes and codes of appropriate behaviour, in line with a 'logic of appropriateness' (Olsen 2010: 39). This facilitates institutional feedback mechanisms, where early harmonisation in ETS 2 is expected to lead to greater centralisation of power in the trading periods to come (Boasson and Wettstad 2010: 5). The foundations for the expansions from 2000 to 2008 will be interpreted as constructed through political and social processes at the European level of institutions. Preferences are shaped endogenously through participation in the Commission and this constitutes one important foundation for the supranational action taken in the ETS (Olsen 2007: 4, Peters 2005: 26).

While the background of the Commission decision-making process will not be elaborated upon in great detail, these descriptions are central in order to grasp the output of the institution in the policy process. Will this study show signs of the Commission exploiting its more detailed knowledge on emissions trading, and its role in independently initiating the scheme to generate influence over the ETS at the expense of the member states, in the periods to commence ETS 1? I will investigate if, when examined over time, the gap in member state control over the ETS appears prominent (Pierson 1996: 126, 137). The Commission is increasingly taking on a life of its own in the making of European climate politics, and the process towards task expansion can be understood as a consequence of institutional empowerment, happening as a result of socialisation, routines and institutional feedback mechanisms in the Commission. The institution is understood as developing into a more ‘normalised’ executive, wishing to expand its agenda and increase control over policies and implementation in the member states.

The institutional perspective, as it is used here, emphasise the organisational dimensions of the Commission organisation: Institutionalism is supplemented with organisational perspectives in order to investigate to what extent the Commission’s institutional architecture might have influenced upon the decisions taken in relation to increased harmonisation and more common rules in the ETS (Martens 2006: 130). The Commission represents a particular organisational context within the EU, it is a marker of the polity’s character and consequently some patterns of behaviour are more likely than others: The organisational setting provides for Commission goals and role expectations in the ETS (Egeberg 2006a: 13). On this basis it makes a difference for the policy process how the Commission is organised (Martens 2006: 130, Olsen 2007: 3). For the purpose of the institutional approach the Commission is moreover assumed to have the following goals within the EU ETS: “*to increase its own competences and influence within the policy process.*” (Pollack 1994: 102) This premise is closely related to the Commission’s proactive role hypothesised to be found in chapter four. The ETS measure can be classified as a regulatory policy<sup>10</sup>, and it is a question if the developments towards the revision of the scheme can be understood as a result of the political entrepreneurship coming from of the Commission (Pollack 1994: 96).

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<sup>10</sup> A regulation spells out the aim of the legislation together with descriptions over what must be done and how. The aim with formulating regulations is to provoke certain policy outcomes (Cini and Borragán 2010: 451).

The Commission do not adapt perfectly or without cost to new challenges, and organisational structures are rarely deterministic in terms of past events. Instead of shaping decision-making fully the Commission will in the ETS be expected to provide general orientations for action (Martens 2008: 647). Thus it will not be rejected that influences might well come from other places, in addition to the EU supranational forces. Finally, the Commission is constantly developing its competences related to emissions trading, empowering its role as an entrepreneur over the period (March and Olsen 1989, Nørgård 2006: 176).

How can these descriptions of institutions roles in political life be related to the role of the Commission in the ETS? It will be expected that Commission institutional forces have been central in the movement towards increased harmonisation and centralisation, and that changes initiated can be understood in accordance with the characteristics outlined above. Once the ETS was introduced as the Community's main measure to face the challenge of climate change it will be expected that some trajectory mechanisms were set into force. This has lead to that it was easier for the Commission to expand along the already entered into force ETS, than to establish a new and fundamentally different measure to reduce GHG-emissions. In line with institutional theory the Commission expansions over the period studied is therefore expected to have been influenced by this path-dependency of earlier policy choices. Once the EU-institutions made a decision in the ETS, the patterns created became persistent (Peters 2005: 73). In investigating this, the interviews (in addition to secondary document sources) will be an important source of information. It will provide possibilities to gain insight into reasoning's over changes and harmonisation of the scheme, not provided for in official documents produced by the Commission and DG Environment. This leads me to the following hypothesis:

*H3: The European Commission can be characterised as a policy entrepreneur in the development towards EU ETS 3. Organisational and trajectory forces contributed to institutional feedback mechanisms and an expansion of European competences in emissions trading.*

#### 2.1.2.2 Changes in European Commission competences as institutional learning

Institutions like the Commission “provide an organised action capacity for change and they have a life and dynamics of their own, making it important to identify institutional sources of both change and continuity.” (Olsen 2010: 36) How is the process of task expansion a result



of institutional learning? New institutionalism is sometimes criticised for not specifying rigorously enough the factors that change organisational output and the exact relationship between these factors and the organisational changes (Olsen 2010: 145). Having commented upon this critique I will still argue for the theory's relevance for grasping parts of the changes to the Commission's competences.

Change and task expansion can happen in two ways, either incrementally or episodically (Olsen 1992: 257). When change happen incrementally this will take place within the boundaries of the Commission's history, identity and internal dynamics, and this involves learning from frequent, small, reversible steps (March and Olsen 1989: 170). The expansions of competences in the ETS will accordingly not challenge established power structures and core values of the Commission. If change takes place in a more episodically, dramatic manner the changes will transcend the Commission's traditional institutional identity and internal dynamic (Olsen 1992: 257). The competence expansion will in this thesis be expected to have taken the form as a change process happening incrementally. The Commission pushed forward the changes in the ETS itself parallel with the developments of ideas about appropriate behaviour that changed as new experience over emissions trading occurred (March and Olsen 1989: 170-171).

The process of learning will be understood as the principle mean for adaptation to challenges faced by the Commission (Peters 2005: 35). The problems with the ETS experienced in ETS 1 and 2 can be seen as an anomalous situation for the Commission, where internal routines provided with sufficient performance to make the scheme more successful in ETS 3 and beyond (Peters 2005: 30). In the movement from the Green Paper to the revised ETS Directive, the normative basis of the Commission has been important in deciding how to formulate the new ETS, and respond to the challenges prior to the revision process in 2007/2008. Core values will not be looked at in detail, but understanding these will be touched lightly and discussed with the characteristics of the changes and revisions that have taken place this far. In order to understand the changes in governance by the Commission, I need to explore to what extent the centralisation process have been the result of an institutional learning process and adaptation to changing environments. Based on this the last hypothesis manifests itself:

*H4: Changes and revisions to the EU ETS may be understood to be a result of institutional learning in the European Commission. The changes towards an expansion in European*

*competences in the field of emissions trading have happened mainly in an incremental manner.*

To sum up, institutional theories “*all seek to elucidate the role that institutions play in the determination of social and political outcomes.*” (Hall and Taylor 1996: 936) The EU-institutions are perceived as arenas where common institutional practices emerge. Out of this come shared cognitive maps embodying the appropriate institutional practice, given the challenges of the first two ET periods. What an actor will see as ‘rational action’ is thus in itself socially constituted (Hall and Taylor 1996: 949-950). When the ETS, after the first two years of trading, proved itself to be highly inefficient, the Commission must have felt the pressure to respond quickly to the low results. In line with this, I will argue that when the Commission introduced the new cap-setting model for ETS 2 in 2006 and revised the ETS in 2008, the organisational forces and internal agendas in the Commission contributed to higher levels of vertical integration.

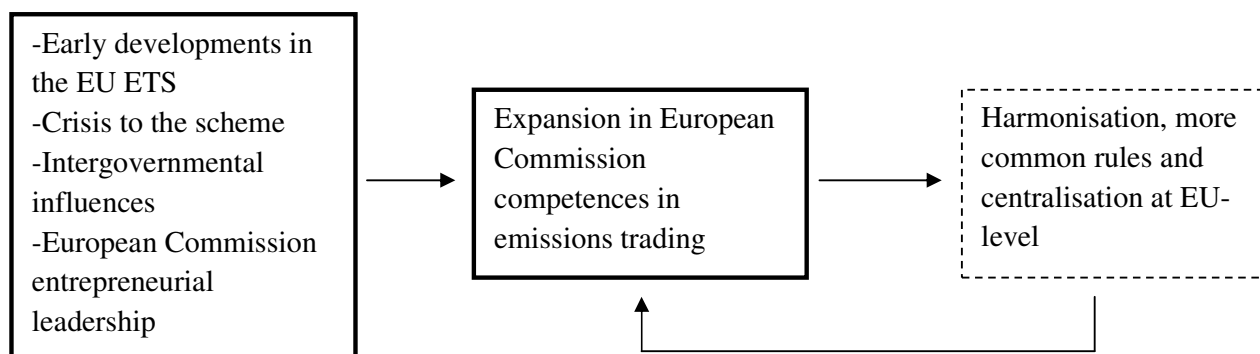
### 2.1.2.3 Theory: A summary and challenges to a complementary framework

The explanatory factors of intergovernmentalism differ from those of new institutionalism. The Commission is interpreted as having different roles in the two perspectives, understandings that are expected to complement each other in this thesis. However, when combining theories in order to provide with explanatory variables in a scientific study, it is of utmost importance to reflect critically over what exactly the theory wish to explain. Before this however, a model that sums up the dependent and the independent variables of my project will be drawn and discussed.

The mechanisms leading to change in figure 2 draws on institutional postulates. In this, intergovernmentalism, together with institutionalism, makes up the independent variables leading to changes in the dependent variable. For a Commission competence expansion to take place, and in the next round a centralisation of decision-making power to happen, the following is expected to influence the expansion: Early developments in the ETS, crisis to the scheme, influences from the member states and an entrepreneurial role of the Commission. Once the Commission has gained some increased competences it is expected that this will contribute to further centralisation in the ETS (as a result of the increased decision-making power of the Commission). This again contributes to even more Commission competence expansion in the EU ETS and is part of the institutional feedback mechanism expected to

operate in the transition from ETS 1 via 2 to 3. The premise can be illustrated in the following explanatory model where the independent variables lead to changes in the dependent variable, which moreover is expected to lead to centralisation. My overall expectation when it comes to the institutional perspective is that the expansion we have witnessed in the Commission's competences until ETS 3 will *in itself* lead to further changes and empowering of the Commission's role in the ETS. The competence structure related to climate governance grows more 'mature' and 'dense' over time, resulting in further changes to the scheme initiated by the Commission (Egeberg 2006b: 29) and strengthening the institutions role as a policy entrepreneur.

**Figure 2: Developments of the EU ETS and the European Commission competence expansion**



In the new institutional perspective the actors at the level of the EU-institutions are of importance in themselves, and are shaped by internal norms and routines. Change to existing policies might well be initiated from the Commission itself outside the control of member governments. Scholars of intergovernmentalism would, on the other hand, understand this as the institution exceeding the role it was meant to have, and accordingly pull out. Officials inside the Commission, both in its political and administrative services, pursue primarily what they see as their national interests and no supranational sense of loyalty of importance is present. In institutionalism on the other hand, the institutional dynamics of change is emphasised as an individual explanatory factor for policy changes, and loyalties might well be supranational (Egeberg 2010: 129). "*External impulses are interpreted and responded to on*

*the basis of institutionalised patterns of authority, standard operating procedures, understandings and resources.”* (Olsen 2010: 41).

Intergovernmentalism sees actors as rational. They follow their own interests in order to promote economic benefits in the Union. The EU is understood as a pragmatic institution established in order to secure credible bargaining conditions for the member nations.

Institutionalism on the other hand sees the Union as an organisational sphere with individual states increasingly being integrated into a larger unit (Andersen 2003: 8). The focus is on the output of the EU-institutions, and the aim is to clarify institutional behaviour and European policy-making. Its postulates are also different from that of intergovernmentalism. Actors are not rational; they can, and often is, shaped by the institution they are a part of and thereby serving its interests.

Theories of EU-politics vary in what their scope of explanatory power is.

Intergovernmentalism together with liberal intergovernmentalism aims at explaining state behaviour in the EU, and why European integration occurs. The focus is on treaty negotiations rather than day to day politics. It is the interstate bargaining that change the rules, and therefore require attention (Pierson 1996: 130). Meanwhile, institutionalism has a different focus in the course of European integration (Stone Sweet et al. 2001: 4). This and other postulates therefore pose challenges when combining the intergovernmental approach with institutionalism.

How can the challenges of combining these two perspectives with different aims and assumptions be overcome? By reflecting on and pointing to the differences, I hope to show a way of combining the two. By exploring both intergovernmentalism and its liberal ascendant, a thorough picture of the rational approach is drawn up. My research strategy is well suited for applying theories with postulates at different levels of analysis. Different data sources elucidate intergovernmental and institutional arguments, and accordingly my chosen research methodology will facilitate the application of two theories with different focuses. Following the complementary strategy, the theories will not challenge each other in terms of explanatory power. Where one focus on the member states, the other bring in the supranational role of the Commission. Still, it will be important to bear these challenges in mind when analysing the findings in the analysis and drawing the conclusion. Limitations to the study will be elaborated upon in greater depth in chapter five.

## 2.2 Research methodology and the empirical material

In the following section, the research methodology together with the selection and collection of the empirical material will be outlined. First, the case study approach will be elaborated upon. Secondly, the data material and method of analysis will be outlined, and its overall quality will be evaluated. Finally, the reliability and validity of the study is brought in.

### 2.2.1 Applying the case study strategy

The research methodology employed in this investigation is a case study, part of the qualitative tradition in political science, relying on small number of cases (King et al.1994: 4). This strategy is a commonly held approach in EU-studies (Andersen 2003: 6). I will for the purpose of this investigation use the case study in an interpretative manner. Thus, my empirical findings will be explored by both intergovernmental and institutional explanatory perspectives. Concepts and theories will be presented to make sense of the empirical phenomenon *European Commission competence and task expansion in EU ETS* (Andersen 2003: 9). Common for interpretative case studies is an interest of the case in itself, rather than a focus on improving theoretical generalisations in any way. My single case is however not a-theoretical because I explicitly make use of theoretical propositions in my study (Lijphart 1971: 692).

There are a number of advantages and challenges in conducting a case study. One of the most important advantages is the possibility for an in-depth study of the topic at hand. These “thick” descriptions (Gerring 2007: 49) will provide with some other results than for example a more quantitative oriented study would do. I will expect that the process of development in ETS and the Commission competence expansion has multiple causes related to it. The case study methodology will provide me with the possibility to gain insight into this policy-process and in the next round use the results to analyse my research question (Rueschemeyer 2003: 307).

Limitations to a case study rely first and foremost on the ability to generalise and to estimate effects across a range of similar cases (George and Bennett 2005: 25): The external validity is expected to be weak. This is closely connected to the fact that it is a single case that is being studied. The particular policy development and competence expansion subject to investigation here represents only one set of events in the universe of climate policies in the Commission. Moreover, “*case studies remain much stronger at assessing whether and how a variable*

*mattered to the outcome than at assessing how much it mattered.”* (George and Bennett 2005: 25, original emphasis) From this it can be seen that it will be difficult to determine to what extent member state influences and Commission institutional forces mattered for the competence expansion. I will rather have the possibility to conclude if these influences were in fact important for the process, unravel central mechanisms leading to the harmonisation of the scheme and assess the explanatory power of my chosen perspectives.

My goal in this investigation is not to make generalisations. However, I wish to shed light on a larger class of similar cases of the Commission’s expanding role and possible policy entrepreneurship in climate politics (Gerring 2007: 20). Implicit in any case study is the method of going deep into the material to look for explanations. The time-span under study is short - from 2000 to 2008, and I therefore find it suitable to treat my case as a single case study. This means that the period will be treated as one and I will discuss it as one in the analysis.

Bias in explanatory factors may occur due to the narrow scope of the application of theory. The choice of research method was based on what I wanted to investigate, and accordingly I found the case study to be the most suitable for this thesis. It will however be important to be aware of this possible bias in perspectives. This will be discussed more extensively in the conclusion.

To sum up, although generalisations to an overall pattern of empirical cases is not possible, I hope to be able to interpret my findings in a direction representing interesting theoretical variation by using the case study method (Andersen 2003: 8). Little research has been done so far, where the goal is to understand the developments of the Commission’s role in relation to the centralisation of the ETS. Consequently, this thesis will partly explore the Commission process and broaden the understanding of it, and partly draw on related studies.

### **2.2.2 Collection and analysis of the data material**

The method of analysing the data material will be qualitative document and content studies. In a qualitative study approach it is important to describe the work and process leading to my findings: *“Explicitness about the process is required so that others may evaluate his work, replicate the process, or qualify the findings.”* (Krippendorff 1980: 49)

This study will make use of two main sources of data material. I have done eight elite interviews with persons familiar with the ETS. Together with this, document sources will be utilised. The informants were chosen based on their knowledge with the ETS and the Commission's role in the development of the scheme, thus my study is based on a strategic sample of informants (Thagaard 2009: 55). My goal was to interview both officials from the Norwegian Ministry of the Environment and officials in different positions in Brussels. Two interviews were made in the Ministry (with three persons). In Brussels I met with one official in ESA (the EFTA Surveillance Authority), two persons in the Commission DG Clima section, in addition to the Norwegian Counsellor for Environment to the EU. One interview was finally carried out with a Norwegian scientist with substantial knowledge about European climate policy. This has been very useful as it has provided me with a different perspective on the ETS, and served as a possibility for cross-check of information (Karlseng 2006: 32).

The document material has been collected from different sources. The EU has a goal of increasing transparency for the population of Europe, and making the political processes more open. Consequently, large amounts of document material of different forms are continuously made public via internet pages. Commission perspectives will be presented from official EU-documents in addition to the interviews. Sources for member state influences will be reflected in the workings of the Climate Change Committee, documents released by the European Council and in interviews made with particularly representatives of the member states.

Secondary sources will also be brought in as part of the empirics. This will make it possible for me to compare my findings with other studies made over similar topics, and thereby check the quality of my work. In addition, this is a source of more information when analysing the document material. Interpretations, other perspectives and approaches will be useful supplements to the use of interview material and the EU-documents. This data-triangulation should increase validity; the possibility to draw upon different sources of evidence is an important advantage with the case study method. Multiple data sources over the same topic will be brought in. In this way the competence expansion can be supported by more than one source of evidence (Yin 2003: 97-99).

The research techniques applied on my empirical material will systematically identify specific characteristics within the text and use these in order to make appropriate inferences (Krippendorff 1980: 23). When conducting document and content analysis it is important to have clearly stated the aim of the inferences (Krippendorff 1980: 27). By stating my purpose

explicitly it is easier for me to judge whether the document analysis is completed when the analysis is brought in (Krippendorff 1980: 27). Delimitations always have to be made to studies like a master thesis, and a listing of these facilitates the strength of the conclusion as it is easier to judge whether the findings were in fact part of my aim. This, in the end, will enhance the possibility for me to evaluate the validity of the study. Is the right data material brought in for my results to be valid?

### **2.2.3 Reliability and validity of the study**

Weaknesses when it comes to external validity have been described above. In terms of concept validity this has the potential to be strong in a case study. Concept validity comprises the theoretical treatment of central concepts to the study and the operationalisation of these in a right manner. It is vital for the study that I pick out empirical indicators that measure the defined concepts, and not irrelevant concepts. Strong concept validity is essential in order to secure an investigation of what I aim at studying (Lund 2002:93). A weak validity will lead to uncertainties in the conclusion (Lund 2002: 97). The most important independent variables in this study are intergovernmental influences and the Commission institutional empowerment. I believe that the most important concepts in this study, the competence expansion, the Commission, political entrepreneurship, vertical integration and *modus operandi* are elaborated upon in a satisfactory manner. The understandings of the dependent variable outlined in the introduction are furthermore related to the most important events in the process of competence expansion in sub-section 1.1. Through the data material I wish to elucidate both formal and informal processes to the case. I will argue that the chosen sources for empirics are well suited to shed light upon both of these sides of the ETS policy process, thus the validity of this study is seen as satisfactory.

Validity is closely connected to reliability; reliability in data sources is a precondition for interpretations to be valid. The reliability of my study is satisfactory if it is possible to reach the same result by conducting a similar study at a later stage, using the same units of measurement (Krippendorff 1980: 21). When the qualitative interviews were conducted a recorder was used. Taping interviews increases reliability of the data sampling, but might affect validity: The informants may answer differently because of the recording. I did, however, not experience this as any problem affecting the validity of the data sampling. It was my experience that the respondents answered openly to questions regardless of the taping.



The interviews followed a semi-structured strategy, and the questions asked were open-ended. This gave the interviewees the possibility to structure the answers in their way. An interview guide was prepared in advance and followed during the session. Still, being semi-structured interviews, follow-up questions were made where this was natural. This has been somewhat challenging to document in detail. The interview-guide was finally slightly adjusted between informants inside or outside the Commission in order to secure that the questions posed were relevant. Thus two different interview guides were utilised.

As for the choice of cases and delimitations to the investigation, the developments in the ETS are only analysed from the level of the Commission and thus the full range of influences to the centralisation process will not be emphasised. It is likely that there will be a variation in member state positions over the ETS which will not be shown here, as diverging state positions are not elaborated upon in any great depth. Also, the international level of climate negotiations and effects of the competence expansion is not included in this thesis. In spite of delimitations leading to a focus only on the Commission, I will argue for the relevance to gain insights into the process that has taken place until now at EU-level. When focusing on developments in European competences related to a specific policy field, the main executive will be understood as the most central institution to focus on.

Only a few changes in the development of the scheme will be introduced: The establishment of the EU ETS, the 2006 revisions of the cap-setting model and finally the 2007/2008 revisions of the scheme. It is my belief that these three stages of events provide the best illustrations of the competence expansion and this is the reasons for the choices made. Many important developments in the Commission's role in the ETS 3 have happened after 2008, but these were on a more technical side and related to implementation (interview). Due to considerations over simplicity and scope an inclusion of all steps in the changes to the scheme is seen as too demanding for a master thesis like this. One final delimitation concerns the specific design elements studied. I will only concentrate on cap-setting and the allocation of allowances, and key elements left out of this study include among other monitoring and enforcement mechanisms (Skjærseth and Wettstad 2010b: 102). The reasons why I wish to concentrate upon the cap-setting and allocations (together with the making of NAPs) are the cap-settings importance for the overall levels of ambitions in terms of actual environmental impacts, and the allocations because it is a key factor in the implementation of the ETS. For

both key designs the cooperation between the member states and the Commission becomes highly visible.

### **3. The period towards the European Commission competence expansion in emissions trading**

In this chapter I will map and trace the events resulting in expansions of the Commission's competences in European emissions trading. The presentation of the empirical material will be structured according to the three main periods focused upon: The early phases of the ETS' existence, the 2006 changed cap-setting model and the revisions of the scheme in 2007/2008. Before the main developments in the process of Commission task expansion can be elaborated upon, it is important to create a baseline from where the bulk of the data material will commence. To perceive why the reactions to the problems in ETS 1 at the European level turned out the way it did, and to grasp the process leading to the Commission competence expansion, an understanding of the main events leading up to the process in 2006 is necessarily included in the analysis. This will contribute to a more complete conclusion.

In chapter 1 it was shortly outlined how the tasks and the role of the Commission have increased considerably under the studied time-span. This gives momentum to questions like *why* and *how* this happened? How can it best be understood and explained? Is it through an increasingly stronger voice of the member states to centralise more power to the EU? Or is it explained by a Commission institutional entrepreneurship? By going into Commission documents and in-depth interviews with official's familiar with the process, in addition to secondary sources, this will present a deeper understanding and insight into the process that will be subject to analysis in chapter four.

#### **3.1 Backdrop: Decentralised decision-making power in EU ETS 1**

Climate politics and developments in this field has become an important focus area for the EU. The challenge of climate change is a problem of international character and accordingly a question that should be addressed at a corresponding policy level. For the Union as a whole, climate policy has become a mean of showing global leadership and high levels of ambitions; the Commission has a goal of exporting the cap-and-trade system to other parts of the world (Kanter 2011). In addition to the international ambitions, the EU and the Commission in particular has within the Community taken on a leadership role in fighting climate change (McCormick 2001: 281). Among the population of Europe there is a commonly held understanding that global warming is a problem that the European institutions should address.

As a response to this demand, the Commission has established and facilitates further developments in the ETS to find common solutions to the climate problem (interview).

In relation to the specific economic measure dealt with here, the Commission concluded after the signing of the Kyoto Protocol that the challenge of climate change should be faced by the EU-institutions with the emissions trading tool at hand, in line with a general increase in reliance upon the dynamics of markets in the Union (Delbeke 2006: viii). With powerful and successful measures being part of the internal market, the ETS will be an increasingly important policy device to sell to the rest of the world. However, in order to communicate the principle of emissions trading and a successful recipe for implementing this on a global basis, the Commission has taken on the task to remedy the early child-diseases of the scheme. The most important events related to the initiations of early policy developments in the emissions trading regulation proposed by the Commission until the changes were made to the cap-model in 2006 will be elaborated upon in the following.

From being a sceptic to introducing the principle of emissions trading as a measure to fight climate change during the negotiations over the Kyoto Protocol in 1997, the EU under the lead of the Commission, changed its mind and introduced the ETS as the main method to reach the Community's common Kyoto target of 8 per cent<sup>11</sup> reduction in greenhouse gases (GHGs)<sup>12</sup> in the period 2008-2012 (as compared to 1990 and 1995 levels of emissions) (Peeters and Deketelaere 2006: 4). Resulting from this change of opinion the Commission launched a Green Paper in 2000 (European Commission 2000a), as one of the first steps in the development of the ETS. This paper established a consultation process on the use of emissions trading. The goal was to prepare the EU and the member states on implementing the Kyoto Protocol. During the early phases of the ETS, it was the Kyoto Protocol and its emission reduction goals that were the overall focus and driver for the initiation and improvement of the scheme. This has now changed as the Kyoto period is moving towards an end. The EU is looking forward, focusing on the long-term development of the scheme towards 2050. As for most aspects of climate politics, where the effects are widespread and the costs are isolated to specific sectors and industries, in order for success to take place in an

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<sup>11</sup> Only the EU-15 (the 15 member states who joined the EU before 1 May 2004) is included in the common Kyoto reduction goal for the Community. The remaining members of the Union and parties to the EEA agreement are part of the EU ETS with their national reduction goals, as agreed upon in the Protocol (Peeters and Deketelaere 2006: 4).

<sup>12</sup> Six gases are part of the Kyoto Protocol: Carbon dioxide (CO<sub>2</sub>); Methane (CH<sub>4</sub>); Nitrous oxide (N<sub>2</sub>O); Hydrofluorocarbons (HFCs); Perfluorocarbons (PFCs); Sulphur hexafluoride (SF<sub>6</sub>) (Kyoto Protocol 1998: 19).

EU-wide and indeed complex economic measure as the ETS is, with (currently) 27 member states and 3 EFTA states, Commission experiences over how to handle this has facilitated improvements.

In the 2000 Green paper the Commission clearly stated that it would take on a “learning-by-doing” approach when faced with the novel ETS (European Commission 2000a: 10). The EU-institutions and the member states were not familiar with the economic principle of trading with emissions allowances at its introduction, and at the time of the setup of the first national allocation plan the member states were without any verified data on emissions from the different installations. As a consequence of these preliminary challenges, the Commission in cooperation with the states had to explore the needs of the different member states through several meetings to come up with efficient levels of caps for ETS 1 (interview). New elements have also been added by the Commission as the scheme has developed (interview).

It was strongly emphasised from the Commission that for a successful trading period to take place from 2008-2012, both stakeholders, nation states and the Commission would benefit from experiences gained from a pilot phase starting up as early as 2005. The ETS was thus introduced, despite the foreseen challenges with a quick start up of the scheme. There were several reasons why the Commission was able to setup the ETS in such short time span. One was a loophole in the institutional treaties: The scheme is not a fiscal instrument and it does not need a unanimous vote in the Council (Benson and Jordan 2010: 371). All other alternatives to the ETS seemed impossible at this point, and the Commission decided upon emissions trading as the method to fight climate change (Delbeke 2006: viii). Some protests were raised from the UK and Germany, who wanted a voluntary and not a mandatory approach. By offering concessions to some of the member states, the Commission were able to get its proposal for an emissions trading scheme accepted (Benson and Jordan 2010: 371).

Seen in light of the quick establishment of the ETS, people were not ready for a centralised approach when the idea was launched in the Green Paper, something that gave rise to challenges also in terms of governance. Due to the controversial nature of even introducing a cap-and-trade scheme, the Commission had to start with a decentralised approach in ETS 1, where most tasks and competences related to emissions trading were left to the states (interview). According to a DG Environment official this more or less forced decentralisation showed that “*several aspects of the implementation of the scheme created a formidable challenge for authorities at European and national level.*” (Zapfel 2007: 13). There were a lot

of obstacles and challenges related to the tasks in the ETS that had to be overcome both in national administrations and in the Commission services before a cap-and-trade in the Union, across the sovereign states, could function properly (Ellerman et al. 2007: 3).

As is always the case, the Commission do not come up with proposals in a black box. Many different stakeholders and industry voices were raised together with the member states for the Commission to come up with suggestions prior to the proposal of the 2001 Directive that would secure a majority in the Parliament and Council. This being said, at the time of the introduction of the Green Paper it remained clear that the Commission aimed at a more centralised approach already from ETS 1, and it was acknowledged that member state sovereignty might be at stake: *“There is, however, a trade-off between providing greater equality of treatment and more simplicity on the one hand, and Member State maintaining greater autonomy on the other.”* (European Commission 2000a: 12). Despite the set out aims the finally adopted 2003 Directive was, as touched upon in chapter 1, indeed highly decentralised. The Commission was left with few specific competences as the scheme turned out in the first period of trading. Before the Directive was finally adopted in 2003 however, the Commission still made a few attempts to harmonise the system from 2005.

In the follow up to the Green Paper, the ETS was formally proposed by the Commission through the 2001 Directive. In terms of cap-setting and the allocations of allowances, these resembled the major changes made to the scheme in the first proposed Green Paper (Skjærseth and Wettstad 2010a: 316). The cap was to be set in a decentralised manner and allocations of allowances should mainly be conducted free of charge. In terms of governance however, the Commission still argued for a harmonised approach in the 2001 Directive. It was clearly spelled out by the Commission that trading in emissions allowances embodies certain challenges that can not be responded to by the individual nation state, and the Community level should therefore be in charge, although in line with the principle of subsidiarity and proportionality<sup>13</sup>. It was emphasised that the Commission would not take on more competences than what is necessary in order to achieve the formulated goals (European Commission 2001: 21). With this we see that even if the Commission tried to take on high

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<sup>13</sup> Subsidiarity is a concept established in the Treaty of Maastricht saying that decisions should, if possible, be taken as close as possible to the citizen. The principle of proportionality implies that the means utilised should not exceed the end goals. This applies to decision-making and legislative processes in the EU (Cini and Borragán 2010: 452, 450).

levels of competences already at the outset of the scheme, the result was a decentralised pilot phase.

In the run-up to the adoption of the 2003 Directive, the Commission established an internally epistemic community consisting of DG Environment officials. This BEST-group (bureaucrats for emissions trading, after the label by Skjærseth and Wøttestad (2008a)) worked to promote the principle of emissions trading among stakeholders affected by the planned ETS. This internal group has been described by Boasson and Wøttestad (2010: 14) as very important in securing the necessary support from stakeholders and consequently also the support of the member state governments, for the establishment of the ETS.

After the official proposal of the system in 2001 the ETS Directive was formally adopted by the Council in July 2003 and became part of law in October the same year (Skjærseth and Wøttestad 2010a: 317). This highly decentralised outcome after co-decision shows what is also confirmed in the interviews. The development of the ETS had to be conducted in a step-wise manner in order to get the scheme approved by the Council and Parliament.

Consequently, the Commission had to lower its level of ambitions when it came to the degree of centralised governance, and the amount of tasks the institution should possess in ETS 1. Instead of centralised governance the 2003 Directive depicted that it was left to the member states to take most decisions over the tasks in the first trading period.

With the formal adoption of the ETS Directive by the Council, the route was cleared for the member states to formulate their own NAPs. With regard to the most central elements in the national allocation plans; the cap-setting and allocations of emission allowances, the 2003 Directive was mostly in line with the Commission's proposal from 2001. For the ETS 1 period the cap-level and the method of allocation was heavily decentralised. The cap-level was left to the member states to decide and include in their NAPs (European Commission 2003, article 9). With the words of a Commission official over the first trading period: "*The Directive offers considerable flexibility for Member States in setting national caps.*" (Zapfel 2007: 17) Thus, as can be seen, the provided delegations left a lot of tasks and competences over technical questions to the nation state level for ETS 1 (Zapfel 2007: 14). But does it at the same time imply that it was the Commission that held the real control over delegations of tasks in the pilot phase? This will be returned to in chapter four.

As for emission allowances, most were to be handed out for free so that the operators could get used the principle of putting a price on CO<sub>2</sub>, and it was left to the states to distribute these quotas between the different national installations (Zapfel 2007: 18). The produced NAPs among the states for the first period, submitted to the Commission by September 2004, reflected this strong decentralisation in allocations and other technical provisions related to ETS. For most member states, the levels of caps for ETS 1 decided upon by the member states were generous, something which might have been in line with a ‘tragedy of the commons’ mechanism (Skjærseth and Wetttestad 2009:104). States fear of giving themselves an overly stringent level of cap compared to the other member states cap-level lead to substantial problems for the schemes existence: The price of carbon was at its lowest during the first period of trading and questions were raised on the schemes credibility (Euractiv 2011a).

Lack of verified emissions data at the levels of the installations constituted another problem in the early phases of ETS 1 (Ellerman et al. 2007: 339). This has been pointed at as possibly the most important reason for the NAP 1 over-allocation. The challenges to the scheme in the early phases of ETS 1 also resulted in unfair treatments and unequal conditions in terms of competition between different types of Community industries and installations. This has been understood by the European institutions as highly demanding for the internal market and a problem that had to be efficiently dealt with (interview).

Turning to the role of the Commission in the ETS pilot phase, I will state that they had the power to assess the national allocation plans drafted by the member states. All NAPs had to be submitted to the Commission for an approval, but apart from this the Commission did not have any significant influence over the more technical questions concerning the cap-level and allocations of allowances. The criteria by which the Commission could assess the NAPs in the 2003 Directive were more of a general rather than operational nature, providing the member states with considerable freedoms (Zapfel 2007: 15). The Commission participation was limited due to a number of reasons, some of them which have been pointed at in this section. The role of lobbying has traditionally also been strong in the ETS (interview), a fact that might have scaled down the Commission’s voice in ETS 1. However, in spite of the decentralised *process* started in 2005, seen from the Commission perspective the institution maintained a strong control all the way from the start of the pilot phase (Zapfel 2007: 15). According to some of the member state informants, the institutions role has been of a strongly



coordinating character from the beginning; they intervened and governed the functioning also of ETS 1 (interview).

Once the allocation plans for the first period were handed over to the Commission in 2004 the plans were also considered by the member states in the Climate Change Committee. In this way member state representatives could debate each other's NAP and the Commission, which chairs the meetings, could integrate the comments of the member states when assessing the plans. The opinions of the states concerning the NAPs could thus be expressed to the Commission in meetings among the member states and Commission officials responsible for the ETS. The nation states did not have any formal decision-making power when it came to the limited Commission assessment of NAP 1, but CCC meetings provided the possibility to observe when other participants presented their plans.

To sum up, it is shown through the tracing of the early stages of the EU ETS, that the Commission intended to start up a learning process when the ETS was first set out, regardless of the degree of harmonised control in the final Directive outcome. The original goal of the Green Paper was a more centralised system. The Commission foresaw the advantages with this and attempted to make this a part of the 2003 Directive. However, the Commission proposals are always shaped in such a manner that it will not be outvoted by the other EU-institutions (interview). The results in the 2003 Directive reflected this and were altered on some essential points, paving the way for a decentralised approach with a belonging spread of competences across the nation states. The role and tasks of the Commission was through several mechanisms restricted in the founding years of the ETS, also in the assessment of the national allocation plans. In spite of this, as shown above, their role can all the way be understood to be of a pro-active manner. From the setup in 2005 the institution took on the role as an educator and facilitator for the member states. Given the tight time schedule and the states inexperience with emissions trading, the dominant role of the Commission has been interpreted as decisive for the ETS to succeed in such a short time span (Ellerman et al. 2007: 350). The Commission has made climate action one of its prioritised policy areas and the most central developments until the introduction of the NAP 2 assessments in 2006/2007 were initiated by the Commission itself.

## 3.2 The 2006 changed cap-setting model

How is the process towards the Commission competence expansion reflected in the events in 2006 and 2007, where the NAP criteria for the second trading period and the Commission assessments of the plans were to be decided upon? What influences were of importance for the changes taking place? Do the procedural methods show signs of a more open and inclusive *modus operandi*? Does a Commission political entrepreneurship or member state dominance show itself as the most central influences? In this section I will look into the member states and Commission influences on the process where the model for setting the level of cap was changed, and where the NAPs for ETS 2 were assessed by the Commission.

### 3.2.1 Assessing the National Allocation Plans for EU ETS 2

The Commission started up their planning of ETS 2 in 2005. In December a communication was released, indicating that the cap for NAP 2 should be lower than the first phase for the Community to reach the Kyoto targets (European Commission 2005, Wettstad 2009: 316). The 2003 Directive required the Commission to start up a review process of the ETS by June 30th 2006 (European Commission 2003: article 30). All European institutions had agreed that a foreseeing system revision should be included in the 2003 Directive. Based on this a preparation for ETS 2 was officially started up in mid 2006. This resulted in an altering of the model for cap-setting and an increasingly stringent and visible role of the Commission. The changes in 2006/2007 were part of the preparation process for the introduction of ETS 3. As the NAP 2 started to tick in at the Commission some time after the initial deadline in June 2006, it was observed that the plans were not significantly different from NAP 1: The member states had allocated a lot of allowances for the second period as well.

Verified data published May 15th 2006 showed that among a group of 21 member states (including big polluters like Germany), there were a surplus of 44.1 million tonnes extra CO<sub>2</sub> credits for 2005 (Euractiv 2007). All countries except for the UK had allocated more allowances than needed in ETS 1 (and were thus in a situation where they did not have to buy credits). The carbon market was consequently left with problems (Euractiv 2007) and momentum was raised for the Commission to decide upon and implement the first serious changes to the ETS since the 2003 Directive was adopted.

As elaborated upon in the previous section, seen from the perspective of the member states the 2003 Directive set out that each nation should develop their own rules related to cap-

setting and allocation of allowances, rules that in the first trading period turned out to vary considerably between the states. A high degree of participation rights over questions at a macro-level made the conduction of ETS in the pilot phase complex. This increased the administrative burdens and transaction costs for the member states, while at the same time decreasing transparency among the countries (transparency which is essential for a properly functioning internal market). Industry put the governments in the pilot phase under further pressure, lobbying not to hand out less emission allowances than other states (Egenhofer et al. 2011: 5). Based on these two factors it is reasonable to assume that most member states experienced the first year with the EU ETS operating and the process of NAP 2 assessment in 2006 as difficult: Many allocation plans were returned to the states after the initial submission to the Commission in the autumn of 2006, a resource demanding task for the states (interview).

Reactions and responses to the 2003 Directive from the member states also varied and were shaped by domestic policy preferences and capacities of action (Eritja 2006: 69). The EU consisted of 25 member states in 2006, something which also had to be managed in the Climate Change Committee. It was prior to the Eastern enlargement easier to get a majority among 15 states than with 25 (interview). Did the sum of these first stages challenges of ETS 1 lead to more willingness among the states to delegate more competences concerning among other decisions to setting a common cap for all member states, to the European level? This will be discussed in greater detail in chapter four.

While the ETS 1 was challenging for the member states, this might also be said to be true for the Commission. Their role in downsizing the proposed allocations from the member states was an unpopular one among the states. It was expected that the number of allocations would be cut once NAP 1 was assessed by the Commission. At the same time the member states relied on the Commission to ensure that other countries were not too generous in their NAP's (Vis 2006: 202). This scrutiny from the Commission was in fact, according to a Commission official, the only mechanism that safeguarded the collective interests in the EU ETS (Vis 2006: 202). It is worth remembering that after the first year of operating in 2005 the scheme had not lead to impressive reductions in GHG emissions (Peeters and Deketelaere 2006: 4). The Commission was put under pressure from the other European institutions to make the ETS more successful in the trading periods after ETS 1. As a result of the challenges and a

difficult position, the second trading period has resulted in some improvements by the member states *and* the EU (Egenhofer et al. 2011: 5, my emphasis).

Following the Commission's arguments, the strengthening of the scheme in 2006 resemble among other a reduced leeway in allocations for the states due to needs for consistency towards the Kyoto goals. Even if the Kyoto requirements were said to be the most important driver for the supranational action in 2006, the challenges for the member states must have contributed to an overall pressure for an alternation of the administrative workings related to the ETS. How then, were the developments seen from the perspectives of the states and the Commission related to this process?

Given the Commission's role as a reviser of NAP 2, the plans were to be submitted for an assessment 18 months in advance of ETS 2 (European Commission 2006a: 2). By November 29th 2006, 19 states had notified their NAPs to the Commission and 10 of these had been assessed by the Commission. In the first round of assessment, all NAPs seemed to contain caps with equally moderate levels of ambitions as in ETS 1 (Wettestad 2009: 318). Based on this, all national allocation plans except the Danish, French, Slovenian and the UK were downscaled by the Commission, on an average with 10.5 percent in this first assessment round (Skjærseth and Wettestad 2009: 115). The second round of revisions of the national allocation plans was rounded up by November 2007, and in total the suggested emission allowances from the member states were shaved off by the Commission with an average of 9.5 per cent in the two assessment periods. Of the assessed plans particularly the Czech, German and Polish NAP 2 level of cap was adjusted down by substantial amounts. Only Germany reluctantly, and not particularly willingly, accepted this (Skjærseth and Wettestad 2008b: 279).

The new Eastern member states were least in favour of the NAP reductions (Wettestad 2009: 316, 319). These states also created some problems in terms of allocations. The Eastern member states handed out a substantial amount of allowances in NAP 2 while at the same time being the countries with the greatest potential for reductions, due to the high percentage of use of coal in their industry (interview). There was an obvious disagreement between groups of member states and the Commission over the NAP 2 assessment. Even environmentally ambitious countries, like Germany, had disputes over the assessments of NAP 2 (interview). The disagreements between the member states and the Commission were in fact the reasons for a 'catalytic event' in November and December 2006. All over Brussels

one could feel an excitement regarding what the reactions from the member states would be to the increasingly strict treatment from the Commission, the altering of the cap-model to an EU-wide cap and generally the more active role taken on by the Commission (Wettestad 2008: 4). A question was if the states could accept this stringent treatment from the European level found in the NAP 2 assessment? After all it was acknowledged that if the member states resistance would turn out too strong, it would be challenging for the Commission to change their practice considerably.

The process of altering the Commission's role as an assessor of the national allocation plans started in December 2005, when the Commission published a guidance for the member states in the design of NAPs for the second period. In this publication it was spelled out that *"The Commission considers it necessary to provide additional guidance to consistently incorporate the lessons learnt from the first allocation phase."* (European Commission 2005: 2). Not enough guidance had been provided the states when NAP 1 was drafted and decided. Both the member states and many stakeholders requested clearer guidance in NAP 2. In fact it was the Council that invited the Commission to provide these guidances early enough for ETS 2 to be more successful, and resulting from this came the 2005 Commission communication paper (European Commission 2005: 2). The Commission emphasised in this paper the importance of complete NAPs handed in on time. Finally it was clearly spelled that the national levels of cap for ETS 1 was for the Commission a starting point from where the total quantity of cap for the second period both at EU and member state level should be determined and assessed (European Commission 2005: 3, 5). The European level of institutions foresaw in this early communication how the ETS 1 could be used in order to secure a more satisfactory scheme in ETS 2, and clearer criterias and more harmonisation of the cap were requested from both the member states and the Commission.

### **3.2.2 Introducing the new cap-setting model**

From the start of the ETS in 2005 (and as touched upon in the previous sub-section) the Commission reached its first decisions concerning NAP 2 in November 2006, and implemented the new model for cap-setting. Nine out of ten initially submitted NAPs were rejected by the Commission at this point. They were not satisfying the EU-institutions formulated criteria. As opposed to ETS 1 the Commission introduced in the autumn 2006 explicit formulas for assessing the national allocation plans for the second period. With changed formulas came a more centralised model for setting caps, leading to a significant

reduction in the member states tasks. What was basically left for the states was the power to allocate allowances to the different national installations, as opposed to ETS 1 where the Commission had no power to change the NAP's in any essential way (Skjærseth and Wetttestad 2008a: 174). According to Skjærseth and Wetttestad (2008a: 174) this centralisation of tasks implying that less amount of competences was left for the member states happened "*rather quietly and almost unnoticed*". What were the main characteristics of the process leading to the Commission changing of the cap-setting model, given the NAP assessments and the background?

From the Commission perspective, the first set of NAP decisions in November 2006 was fully transparent, ensuring the necessary stability for industry in the second phase. As part of the foreseen need for more transparency between the member states, the Commission submitted a number of standard tables and sheets to the states in their development of the plans for ETS 2 (Delbeke 2006: 11). The Commission saw the shortcomings of the first trading period and insisted on these and the above outlined modifications to be part of the NAP 2 scheme. Commissioner for the Environment, Stavros Dimas, held a speech in May 2007 where the 2006/2007 assessment process was presented. The credibility of the ETS, he argued, was dependent upon the Commission's ability to adjust the challenges for the next period (European Commission 2007b: 2). This was, according to Commission viewpoints, the main reason for the setting of an EU-wide cap in ETS 2, without any considerable member state participation in the process, and a silent overall acceptance of the development from the states (Skjærseth and Wetttestad 2008a: 174). The decisions that were taken over the 19 first NAPs that had been subject to assessment by May 2007 were, as opposed to ETS 1, based on strict standards in order to ensure the needed scarcity of allowances in ETS 2, and with these decisions Dimas had the full support of the Commission President José Manuel Barroso and the other Commissioners (European Commission 2007b: 3). With this the Commission had explicitly spelled out its assessment procedure, and hence the first step in the process of competence expansion was set (Skjærseth and Wetttestad 2008a: 53).

For the Commission, it was important that the common cap-setting methodology would give the member states a more fair assessment of their NAPs (European Commission 2007b: 2-3). The Commission realised, as a result of the developments until mid-2006 that it had to play a much tougher role in NAP 2. With this in mind a specific cap-setting methodology was developed, as a signal saying "*we will assess the NAPs on this basis*" (interview). The

Commission officials interviewed never heard that the introduction of the new cap-setting model was on the request of the Council. The member states had not come that far in their thinking and planning in 2006, and the states were not so eager on the Commission centralising ETS decision-making power (interview). According to the Commission itself, the 2006 process were by and large an internal process happening in the Commission (interview). The Commission was internally united in the negotiations over NAP 2, which was experienced as a great help in the assessment process (Vis 2006: 203). The supranational forces did, as I have shown, make individual decisions to raise the level of competence in European emissions trading in order to encounter the challenges in credibility of the scheme, and for the operators part of the ETS. How were the influences and reactions to this altering of the Commission's role from the member states?

According to Commission statements from December 2006, the decisions made over the changed cap-setting are “*in accordance with the opinion of the Climate Change Committee*” (European Commission 2006b: 2). To what extent did the voices of the member states have an influence over the decisions formulated in the Commission decision? Minutes from CCC meetings in April and May 2006 show that there was an agreement among the member states to harmonise the approach to the scheme (European Commission 2006d: 4). Even Commission informants experienced that there was a significant member state support for an EU-wide cap in 2006 (interview). In terms of using 2005 emission numbers as the only reference for NAP 2 assessments, minutes from the sessions makes it clear that this will indeed be the case. Some states expressed their concerns over this during the meetings. Using just one year as a basis would perhaps not be representative due to natural variation in weather, economy and other fluctuations. The data could be incorrect and provide additional challenges for the nation states. At this point the Commission remained clear, calling out that it is the best solution to use the 2005 figures with reference to that “*This is not contradictory to the reference in the guidance document on the allocation at installation level.*” (European Commission 2006e: 2).

When the Commission got the verified emissions data for 2005 they were in a stronger position to set the cap for 2008-2012. This also gave legitimacy in the Commission's decision to strengthen its emissions trading competences at the expense of the member states (interview). How did disputes over the figures from the years used as reference relate to the overall member state attitudes towards the competence expansion? Overall, tendencies in the

minutes from the Climate Change Committee, and interviews with member state officials, show signs of a common understanding from the member states that a stricter cap for ETS 2 was in fact needed. This is also confirmed by Wettestad's (2009: 319) conclusions, saying that a call for tougher practice was more or less 'requested' by the member states.

Different allocation rules between the member states in ETS 1 have resulted in a loose system. This has strengthened the member states overall aim for a more harmonised ETS (interview). Despite this wish for more harmonisation, from the view of one interviewee, the Commission pushed the countries quite hard in the new cap-setting model in late-2006, and the model was decided to apply for approximately all states (interview). This being said, the member states aimed at a strong trading system, and it was to some extent acknowledged that the Commission would be the proper actor to initiate the needed changes to the scheme to secure success. According to some of the member state informants, the Commission had the political backing necessary to introduce the new model; after all, the decisions are in the end subject to voting among the states (interview).

It was a tendency among some nation states that it was important for the Commission to react to the possibilities of handing out too many allowances. One cap-model had to be chosen, and according to some of the interviewees there were strong agreements among the states over the strict Commission proceedings in the NAP 2 assessments (interview). Despite this understanding, other states observed the treatment of some member states in quite tough manners by the Commission and this led to more caution in their proceeding related to NAP 2 (interview). Can this show signs of a feeling among the member states that they were left with little choice but to accept the increased stringency from the Commission, given the harsh NAP 2 assessment evident in 2006/2007? Some countries challenged the use of the new formula and brought the Commission revision of the NAPs to the European Court of Justice (Egenhofer et al. 2011: 6). However, most states accepted the altered treatment from the Commission without further protests.

Prior to the NAP 2 amendments made by the Commission, the Climate Change Committee considered the conclusions they had reached. The views expressed did not formally bind the Commission, but was an opportunity for the member states to state their views and emphasise special issues for the Commission to consider in their assessments. This also gave the Commission indications on the sensitivity related to some of the elements of the NAP's (Zapfel 2007: 24-25). According to CCC minutes (European Commission 2006f) it was



emphasised from the Commission that the Committee should consider the NAP's at an early stage after the initial submission of the draft edition, as this would increase the member state influence over the assessment process. Thus, we see that the states are given provisions to influence the decision-making process, given that they follow the tight time schedule set by the Commission. Does this indicate that the voice of the member states were of real importance for the 2006 changed role of the Commission? Contrary to claims in directions of strong nation state influence over the developments in the ETS, some of the informants experienced that the Commission always had a clear agenda on the CCC sessions. Commission officials that lead the meetings were also perceived as strong, contributing to a dominating role of the Commission. Sometimes we (the member states) are listened to and sometimes we're not (interview). On question related to the member states influence in the CCC on a more general basis, one informant stated that *"When each state is present with their own challenges and problems, and at the same time the Commission is there with their strong agenda, leading the sessions and knowing what they want, then it is indeed not hard to imagine how it will turn out."* (interview, my translation)

To sum up, the process in 2006/2007 was understood as quite dynamic. Not just the Commission pushed for changes, the member states also requested this (interview). Even so, where considerable member state protests existed this would perhaps not have been shown in full scope. The changes made were however understood as necessary from the states point of view, whose absence of overall support would have presented serious challenges for the proactive role of the Commission.

### 3.3 The revision of the EU ETS

The initiation and the two first trading phases of the ETS outlined in the previous sections, commenced in a larger review of the whole scheme by the Commission. This was done in the context of the making of the European Climate and Energy Package. This process was anticipated by the Commission from the NAP 2 review in November 2006, and officially started up in 2007 (European Commission 2006c: 2). In what ways are the altered role of the Commission and its method of proceeding related to climate politics reflected in this comprehensive revision process? Was the decision-making process any different from the very first developments in the ETS? In this section, I will go into the policy process that preceded the revised ETS in December 2008, and elaborate upon the events and the

Commission task expansion from the perspectives of the member states and the main European executive institution. By doing this, I will trace the events and shed light upon the last stage of the policy process that resulted in a considerable expanded role and higher levels of competences for the Commission in ETS 3.

### **3.3.1 Early phases of the emissions trading system review**

The experience from the first trading period, and the NAP assessments for the second trading phase, gave the Commission strong indications that the scheme had substantial room for improvement in a number of aspects for ETS 3 (European Commission 2008a: 2). The Commission (as was shown in section 3.1) had aimed for a centralised system since the start. The long term plan had been to implement the scheme stepwise (interview). Discussions over goals and general political directions for ETS 3 constituted the developments towards the adoption of the revised system in December 2008. As one of the first developments in this process of strengthening the scheme and revising the ETS, the Commission, in a January 2007 statement, proposed a series of ambitious reduction goals for ETS 3. Among these was a 21 per cent reduction in GHGs emissions by 2020. In this communication the Commission stated that *“Climate change is happening. Urgent action is required to limit it to a manageable level. The EU must adopt the necessary domestic measures and take the lead internationally to ensure that global average temperature increases do not exceed pre-industrial levels by more than 2<sup>0</sup>C.”* (European Commission 2007a: 2).

It was furthermore emphasised in this January communication that the EU should organise itself towards a common EU approach in ETS 3, in respect of an altering of working methods, so that the Union could pull at its full weight in international negotiations for a treaty to succeed the Kyoto Protocol for the period after 2012 (European Commission 2007a: 8). This is also what happened. There has been a change in the procedural method for the Commission from ETS 2 to 3 in terms of management of the rules, where these have become more centralised (interview).

In early 2007 the ETS was suggested to be strengthened and broadened in scope, to include more than the 45 per cent of the EU's CO<sub>2</sub> emissions covered by ETS 2. A number of options were outlined by the Commission, among others to make allocations for more than a five year period, and to harmonise the emission allocation processes across the member states (European Commission 2007a: 6). Thereby and with these goals and propositions, the

Commission had put down the initial stage for expanding their competences in the process ahead. Were these suggestions set out in early 2007 by the Commission responded to positively by the parties affected of the ETS?

Following this Commission proposal from January 2007, the leaders of the EU in a European Council Spring summit in March 2007, under the German Presidency, agreed that a common EU commitment should be a 21 per cent reduction in GHG emissions by 2020 compared to 1990-levels. A 30 per cent goal was stated as possible if other wealthy non-EU countries in an international climate agreement would agree to equally ambitious numbers. The 21 per cent reduction was part of the overall 20-20-20 goals by 2020, planned to be included in the finally adopted Climate and Energy Package in December 2008. The ETS reform was placed center stage of the making of this new and comprehensive integrated package to face the challenges of climate change by the Union (Euractiv 2011a). With the European Spring Council in March 2007, the Commission objectives were approved: The highest political level in the member states supported a strengthening of the ETS compared to ETS 1 and 2, a year prior to the Commission proposal in January 2008. For the Commission this statement provided by the European Council helped a lot. It meant that discussions would not be focused on what was going to be achieved in the 2008 policy process, but what measures that should be there in order to reach the goals. The proceeding was top-down, where the European level of institutions defined what should be achieved as well as developing the means (interview).

It can be said that the heads of the member states in the European Council took a greater part in the revision of the ETS as a whole. The decision-making process in general took place at higher political levels in the EU than what had previously been the case. Traditionally the European Council has never taken an active role in the environmental policy making in the EU (Benson and Jordan 2010: 364). Does this, and the fact that the states in the revision process were represented by the Council and not the Climate Change Committee in the final stages of 2008, show signs of a more active participation and a stronger voice of the member states in climate and energy politics for ETS 3, compared to the two earlier periods? Has climate politics moved up on the political agenda in the EU compared to when the scheme was first decided upon in 2003, with the consequence that the member states has been more powerful in the process of influencing an expanded competence area for the Commission in the ETS? I will return to this in more detail in chapter four.

Commissioner Dimas in his May 2007 speech called out that the revision of the ETS Directive provided the EU with possibilities both to broaden and reinforce the system, and it was therefore important to seize these opportunities. It was depicted how the review of the ETS would be driven by the new political objectives from the European Council summit in March 2007. By setting forth the 21 per cent reduction goal already early in 2007, the Commission aimed to strengthen the predictability for the market operators and relevant stakeholders. Dimas made it clear that in the revision process, the Commission's main task was to make the scheme function properly, and avoid ambitious goals that can threaten the integrity of the system (European Commission 2007b: 3). Central European competences concerning the cap-level were commented upon by Dimas as to: *"A single European emission trading market also calls for a common EU approach with regards to the way in which we set the number of tradable allocations."* (European Commission 2007b: 4) Industry had made it clear to the Commission that increased predictability in ETS 3 was needed, which is *"generally understood to mean longer periods for cap setting and allocation. Let me assure you that the Commission is looking into this possibility."* (European Commission 2007b: 4) From this quote it is shown that no final decision were yet reached concerning the centralised cap and allocation of allowances in May 2007. In making these decisions, the Commission should base their work and proceedings on practical experience gathered from the member states diverging practise in ETS 2, and also on emissions trading systems being developed around the world. Many decisions concerning the competences eventually left for the European level were not reached until 2008. Also many decisions have been subject to discussion after the time period subject to my study. With the final adoption of a revised ETS, the Commission hoped to make the system more attractive to the rest of the world (European Commission 2007b: 4-5).

To sum up the first stage of the review process, the formulations of Skjærseth and Wettestad (2010b: 114-115) can be used. The development towards the adoption of the revised ETS Directive marked a turning point in European climate policy. Climate and energy politics was from now to be treated more as an integrated whole, and in this the Commission in early 2007 planned the course for what reduction numbers should be the objectives towards 2020. Although initially suggested by the Commission, ETS reduction goals were for the first time subject to discussions at the highest political level in the EU, in the European Council, prior to the final agreements in December 2008. The Commission's ambitions in ETS 3 were clear in early 2007, building on the experiences gathered thus far.

### 3.3.2 Preparing for and proposing the revised EU ETS Directive

The revision process started with the Commission proposal for higher and more ambitious reduction goals compared to ETS 1 and 2, and the heads of states adoption of this. From the set out of a new strategy to strengthen the scheme by the Commission in January 2007, the Commission used the following year to prepare a proposal for a revised ETS Directive (interview). The events and decision-making process that succeeded the Commission communication in January 2007 differed from the official initiation of the scheme in the 2001 Directive and the NAP 2 assessments on some essential points. Overall the process and changes taking place in the revision process has been characterised as representing a significant turn in the ETS centralisation process, compared to the events elaborated upon so far (Wettestad 2009: 317). What characterised the next step, seen from the perspectives of the nation states and the European level of institutions? Would this changed mode of the Commission's workings, with a considerable higher level of tasks and competences, prove itself to be significant in the process towards the new Directive proposal?

Subsequent to the approval of the first milestone in the revision process by the member states in March 2007, the Commission emphasised that the agreed upon 21 per cent reduction goal in GHG emissions by 2020 would indeed require higher reduction rates than the ones that was dominating industry installations part of the scheme in ETS 1 and 2 (Euractiv 2011a). The Commission continued to push for more action among the states and the other EU-institutions in preparation for ETS 3, emphasising that a more ambitious level of cap was important for the future. President Barroso was highly engaged in the decision-making process in the run-up to the adoption of the revised ETS Directive. Barroso understood the making of the Climate and Energy Package as a European project. After the Eastern enlargement in 2004, there had been a lack of these kinds of projects, and accordingly Barroso put his weight behind the making of the Package in this period (interview). Deriving from this general engagement in climate change questions, it was in fact requested at Commission President level that the administrative parts of the Commission should come up with more ambitious proposals for ETS 3.

Climate change was at the top of the agenda for many European leaders in 2008, contributing to the considerable pressure that was created in the inter-institutional setup towards the adoption of the Package. This pressure and capacity to act was also visible internally in the Commission services (interview). Despite the pressure for action at the top political level in

the Commission, its influence over the early phases of the revision process was also to some extent limited. It was after all the European Council that invited the Commission in March 2007 to revise the ETS in order to broaden the scope of the scheme for ETS 3 (Skjærseth and Wetttestad 2010b: 114). Where did the pressure for the Commission to expand its field of competences come from?

The big preparatory process taking place in 2007 was on a general political input side. The Commission in this could explore the member states red lines in expanding the scheme and increasing competences (interview). Several consultations with the member states and affected stakeholders over different aspects of the ETS reform were discussed in four meetings in two days each, between March and June 2007. With this the revision process started up very seriously (European Commission 2008a: 3, interview, Wetttestad 2009: 317). The European Climate Change Programme Working Group (ECCP)<sup>14</sup> was central in the review process, and a report on the development ahead was to be submitted by 30 June 2007 (Skjærseth and Wetttestad 2008a: 193-194). The group of Commission policy officials, primarily in DG Environment (referred to in section 3.1 as the BEST-group), led the meetings in the Commission in 2007. The central topic for these meetings was more harmonisation and flexibility in the ETS. The process was less controlled by the Commission in 2007, and the participation from non-EU officials was heavier and more inclusive compared to the NAP 2 assessment process. This being said, according to Boasson and Wetttestad (2010: 14), some of the participants to the meetings felt that the conclusions reached were more or less in line with the Commission preferences, and that the agenda was steered in certain directions.

Based on these consultation meetings and experiences with the ETS thus far, the Commission in January 2008 proposed a Directive amending the 2003 Directive, to improve and extend the ETS (European Commission 2008a). The opinions of affected industries were considered highly important for the Commission in the run up to this proposal. The member states also made their positions concerning ETS 3 clear for the Commission. Finally, for the revised ETS this proposal was, unlike the 2003 Directive, accompanied by a thorough impact assessment<sup>15</sup> by the Commission (Skjærseth and Wetttestad 2010b: 115). A more harmonised system was at

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<sup>14</sup> The ECCP consists of all relevant stakeholders to the ETS and is a programme of the Commission (European Commission 2000b: 5). It was established by the Commission in 2000, and it considers policy measures that can be introduced at EU level in order to reduce GHG emissions (European Commission 2010).

<sup>15</sup> Impact assessments are tools for the Commission where evidence and analysis is prepared for political decisions to be taken. The Commission refined its proposals for the revised EU ETS Directive in light of the expected impacts it would have (European Commission 2008b: 2).

the point of the proposal of the 2008 Directive seen as imperative from the Commission's point of view to better exploit the benefits of the trading scheme (European Commission 2008a: 13). It was argued that a system based on national cap-setting would not guarantee that the reduction objectives agreed upon by the heads of states in March 2007 would be achieved (European Commission 2008a: 7).

The proposed ETS Directive stated that the principle element of ETS 3 compared to the first two periods of trading was a Community-wide cap with an annual decrease in the amount of allowances of 1.74 per cent compared to the mid-point of the 2008-2012 period (European Commission 2008a: 14). This shows that the proposition by the Commission in January 2008 was to a large extent in line with the position taken in the Green Paper from 2000 (Skjærseth and Wettstad 2010b: 113). The centralised cap in the third trading period would replace the current 27 member state targets. In terms of allowances the ETS is moving towards full auctioning in some sectors in 2013, with EU-wide harmonised allocation rules (Egenhofer et al. 2011: 6). Revenues from auctioning of allowances is planned to be used to reduce GHG-emission, and this should therefore be the rule for the power sector from 2013 (European Commission 2008a: 15).

The Commission's management of the allocation of emission allowances from 2013 onwards will be more centralised. According to one informant, this does not mean that the power of the Commission has changed or increased when it comes to their *modus operandi*. With the open and inclusive Commission decision-making process that have been there since the Green Paper (interview), the work of the Commission with ETS 3 is done in close cooperation with the member states for the third trading period (interview). Harmonised, EU-wide rules on emissions allowances allocated free of charge, will be part of the radical changes in to be implemented in the member states in ETS 3. The opinions of the states has been seen as important for the work related to centralisation of allocations, but the Commission has made the final decisions. By the words of one Commission informant on a question of the CCC meetings related particularly to the revision of ETS (but also in more general terms), it was described that the institution's leadership in the meetings is indeed strong. The Commission's agenda is visible for the member states, and so the Commission push them into what they believe in (interview).

To sum up, in the proposal for a revised EU ETS in January 2008, the Commission was from the start committed to consult affected stakeholders and make the internal process transparent

to states and industries. The aim was stated very clearly: To manage the scheme in order to make it more successful in the future. By the words of one Commission official *“I think we always aimed for transparency as much as we can”* (interview). Commission competences related to the cap and allowance allocations was brought back to its initial position before the adoption of the decentralised 2003 Directive. With the Commission proposal for a revised Directive, the stage was thereby set for the EU to agree upon the expanded ETS.

### **3.3.3 Meetings among heads of states in March 2008 and moving beyond the European Council Spring summit**

In an EU-scale, the revised ETS decision-making process in the second half of 2008 was very quick. It was adopted by the Parliament after the first reading (interview). The Slovenian Presidency from January to June 2008 was emphasised from one of my informants to be one of the early factors contributing to the positive atmosphere, and push for the fast decision-making process taking place from March to December 2008 (interview). The revision of the ETS together with the rest of the Climate and Energy Package was from the January proposal negotiated in the Commission, the Council, and the Parliament until December 2008, and the process and decisions were reached under co-decision (Skjærseth and Wettstad 2010b: 116). The Council was the main representative of the member states in the negotiations, and decisions were therefore not made in the Climate Change Committee (interview). How did the main attributes in the adoption of the revised ETS Directive in 2008 develop?

The process of negotiating the ETS review among the European institutions<sup>16</sup> had its first important step in March 2008. The Commission proposal from January 2008 and the main guiding principles for the third period of trading, in addition to an agenda for the steps ahead in the process of reaching the Package, were agreed upon by the European Council Spring summit (European Council 2008). Concluding from this meeting it was stated that: *“The European Council invites the Commission to continue to support Member States’ efforts to reduce their emissions of greenhouse gases through comprehensive and ambitious Community policies and measures.”* (European Council 2008: 12).

The heads of states agreed during this Spring summit that the Package should be adopted by the end of 2008, in order to have it ready for the UNFCCC COP 15 meetings in December

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<sup>16</sup> The institutions part of co-decision are the Commission, the Parliament and the Council (Bache and George 2006: 246). Under this procedure the Parliament and the Council have equal powers in terms of adopting EU legislation proposed by the Commission.



2009 (Euractiv 2011b). A quick decision-making process was thus foreseen and planned already in March 2008. The goal for final adoption of the revised ETS was set, and the inter-institutional setup together with groups of member states pushed for this to happen. It would, based on this goal, be more challenging for lobbyists and stakeholders to broaden the discussions about the final content of ETS 3. It was furthermore recognised among the states as important to have a single EU-wide cap with annual decrease in allowances, different from the more decentralised approach in ETS 1 and 2 (European Council 2008: 13). The voice from the heads of the member states remained clear at this point. The national stakeholders had communicated to the national governments that distortion over competition in ETS 1 and 2 had to come to an end, and there existed a consensus over that the solution to this was more harmonisation among the operators and the member states. Several of the interviewees did not experience any important controversy related to introducing a centralised cap among the states. One of the Commission informants in fact experienced a broad support for this (interview). It was, according to one Commission informant, a high degree of willingness among the nation states to streamline and harmonise and therefore centralise more competences at EU-level (interview).

France held the European Presidency from July to December 2008, where climate change and energy was called out as France's one out of four main priorities in the six months period (Euractiv 2008). Both the Slovenian and the French Presidency wanted to have the Package ready for the COP 15 climate negotiations in Copenhagen December 2009. At the beginning of its period, France therefore communicated that it wanted to have the package adopted by the end of the Presidency (interview). It was emphasised from several of the interviewees that the French Presidency had an important and instrumental role in the negotiations over the Package after the shift of Presidency in July. When France decided it would get the Climate and Energy Package adopted, they were expected to manage this, unless it had been completely out of line with the opinions of Germany (interview). Given that the right contextual conditions were in place, the Presidency of the EU matters a great deal, and there can be important differences in substantive policy outputs depending on whether it is 'leader' and 'laggard' states in environmental policy holding the chair (Benson and Jordan 2010: 364).

Were there then any internal opposition in the Commission over the revised ETS process? Seen from the perspectives of the Commission and the other EU-institutions, the Package and the ETS revision required a high degree of coordination between agriculture, environment,

energy and transport sectors (Benson and Jordan 2010: 369). Already in the first reading part of co-decision, there were different positions internally in the Commission which were necessary to coordinate. Disagreements existed, but there was good cooperation and everyone was committed to having a good result (interview). Before a reading over proposed legislation amending the scheme can leave the Commission, all DGs have to agree, although the decisions reached concerning the ETS belonged to DG Environment. According to Boasson and Wettestad (2010: 14-15) *“The Commission seemed quite united in the overall push for greater centralisation, but some officials in DG Enterprise were sceptical to full auctioning”*.

The first two trading periods gave rise to a number of individual interpretations by member states related to ETS legislation. This has led to a need for clearer regulations. From the point of view of some of the nation state informants, this can be done in two ways. Either through centralisation or through clearer rules. They understand that it is largely the last thing that is happening (interview). A clearer regulative framework was laid down by the Commission in 2008 with the necessary details to make the scheme function properly. From the point of view of some of the member states informants this does thereby not involve high degrees of centralisation (interview). By the words of one of the interviewees, it is primarily the Commission that is focusing on communicating to the stakeholders and the other EU-institutions that a stronger centralisation in ETS is necessary (interview). How did the final steps before the adoption of the ETS review develop?

In the process of adopting the Package, Poland together with a group of eight Eastern European states demanded that their weak ‘economic potential’ should be taken into consideration. This was raised at a time when other economic challenges were at stake. The financial crisis had started to make itself visible for several of the states, something which gave rise to severe economic problems for many of the countries in the Community. This represented the first time the new entrants into the EU had blocked environmental negotiations (Benson and Jordan 2010: 370). Many of the member states experienced that the process towards the revised ETS was handled quite arrogant, and that small countries did not get the say they normally do. Instead, there was a considerable last stage horse trade between the largest countries in the EU before the revised ETS was agreed upon (interview). The new members from the East were also to some extent a challenge for the EU where deposited quotas had to be sold and where the revenue went to the Eastern states. The East European states and

their positions in emissions trading never threatened the ETS as a European system, but were a danger for holding a common and united EU-position at the international level (interview).

When the Commission presented the Package in December 2008, this was a good illustration on how the European institutions on a generic level are empowering its position over the member states (interview). The French Presidency pushed to have the situation solved by unanimity at the European Council in late 2008. When the revised ETS was adopted, talks between the Commission, the Council and the Parliament replaced the qualified majority voting. The result was as previously outlined that disagreements were solved after the first reading. Where disagreements existed between the main institutions, the support from Dimas helped making the necessary progress (interview). The European Council was also involved in the final agreements of the revised directive, which is unusual for negotiations over climate and energy questions in the EU (Skjærseth and Wettestad 2010b: 116).

The cooperation between the EU-institutions remained strong during this final stage of the negotiation process. Nobody wanted to be the scapegoat for not having the Package adopted (interview). A lot of pressure was created and it was important for Barroso and the two Commissioners for the Environment to make the adoption quick. At the presentation of the Package in the Parliament in December, the Commission made it clear that time was running out. The Package had to be adopted to have it ready for COP 15 in December 2009 (interview). With a longer negotiation process, more time would inevitably be used for other issues. According to one of the Commission informants, the pressure that was created in 2008 lead to the participants focusing on certain things like competition issues, and not on things that could be questioned, like central cap-setting (interview). What was discussed in the autumn of 2008 was primarily the 20-20-20 goals part of the Package. Not specific competences like degree of harmonisation at EU-level. Rather it was (interview).

National governments in the EU have been described as retaining a strong control with events related to emissions trading. This goes for both the final stages of the negotiations over the Package, and the period after the revised ETS was decided upon in 2008 (Benson and Jordan 2010: 371). This will be extensively discussed in chapter four, but a few preliminary remarks can be made. For the opinions of the member states concerning the harmonisation processes towards ETS 3, it has been claimed by Skjærseth and Wettestad (2009: 118) that the Commission can be said to have succeeded in getting their approval for an expanded role in ETS 3 already early in 2008, i.e. prior to the March 2008 agreement by the European Council.

Was this member state influence and consensus over greater harmonisation also experienced as strong in the Commission services? As expressed by one of the interviewees: *“I think that everything the Commission does is sort of at the signal or the impetus of the Council”* (interview). Even for the work done inside the Commission, the voice of the nation states remain strong, at least through the influence of the Commissioners (interview). Based on this, it can be rightly claimed that high degrees of legitimacy in the ETS review process, has been combined with the revision proposals to the 2003 Directive resulting in the 2008 Directive. In this is implied a large increase in the role of the Commission. This will be returned to in more depth in chapter four.

To sum up, the descriptions of one of the informants can be used. The sequence of the decision-making process is different in ETS 3 from what it was in ETS 1 and 2. From having a situation where member states in a way proposed what allocations each installation should have, and the Commission either approving or rejecting this, it is now the other way around. The Commission level is the one that develop the rules and then the member states sign them of (interview). The process has moved from being bottom-up to more top-down, and *de facto* the EU is empowering its institutional capacities to meet the challenges of climate change (interview). With the introduction of the Climate and Energy Package, this increased the decisions taken by the Commission and the other EU-institutions. This went hand in hand with member state participation at higher political levels. With these words I continue to the analysis.

## **4. European Commission task expansion between intergovernmentalism and supranational entrepreneurship**

How can the Commission task expansion best be interpreted? In this chapter I will apply the theoretical framework on the empirical material presented in chapter three. Taken from this purpose the theories explanatory power for the case at hand will be assessed. Can the process subject to study best be understood as a result of a push for change and request for a stronger ETS among the member states? Or can it be seen as coming from institutional feedback mechanisms and a Commission political entrepreneurship, largely outside the control of the member states?

The chapter will be structured in the following way. First, I analyse the stages of the Commission task expansion in light of the intergovernmental approach. Second, the policy process under scrutiny will be interpreted from the new institutional perspective. To what extent will the analysis of the data material lead me to credible findings contributing to knowledge building in European climate change politics? This will be concluded upon in chapter five based on the analysis offered here.

### **4.1 Developments in the EU ETS as a state driven process**

Reintroducing one of the main assumptions part of intergovernmentalism it is shown that this rational approach understands the member states as the main decision-makers in European policy making. To what extent does this hold true for the specific case subject to study here? Is it the member states that lead the Commission into a stepwise altering of its competences related to emissions trading, and that finally commenced in scaling up of ETS on the political agenda in the EU? To what extent does the Commission task expansion from ETS 1 to 3 reflect intergovernmental forces influencing the work of the Commission? These are relevant questions to pose in the rational intergovernmental perspective.

#### **Member states upholding the central influence over the setup phase**

From 2000 climate change has climbed further up on the political agenda in the EU. Taken from the opinions of the member states that the climate challenge is a salient issue largely left for the European institutions to solve, the data material suggests that a response to the challenge of climate change was established based among other on a request for action coming from the states. Can the early events in the process of Commission competence

expansion, where the ETS was introduced, be explained by viewing the member states as the most important actors?

Being one of the largest economies in the EU, Germany and the UK protested against the ETS as a mandatory approach after the introduction of the Green Paper. Without the concessions that were offered to these powerful states, it is likely to believe that it would have been a demanding task for the Commission to get the necessary backing for the ETS. The member states roles and final approval of the scheme were thus of high importance when it came to distributions over basic features like the scheme being mandatory, in the 2001 Directive proposal. In terms of choosing one common climate measure in the EU, the states were of importance for the decision to introduce the ETS and not other climate measures. An alternative to emissions trading is likely that would not have been accepted by the member states in the early 2000s. This supports an assumption of the member states as an important influence over the early process.

As was seen in chapter three the Green Paper stated that the member states should be thoroughly consulted before a final ETS Directive could be proposed. For the member states where there was a lack of verified emissions data, this led to challenges for the Commission in terms of the quick proceedings the institution aimed for. In the preparatory meetings the bargaining position of the member states was therefore strong. Without their cooperation, the European-level institution would have found it challenging to get an acceptance for the idea of emissions trading. But were the member states influences of importance for other decisions taken, apart from questions over a mandatory versus a voluntary approach? If the assumptions part of liberal intergovernmentalism is revisited, it is the will of the member states that determine to what extent the powers of the Commission will increase in scope. In the founding years of the ETS, it will therefore be claimed that the Commission moved within the borders of member state supervision and partly sceptic attitudes towards the ETS. The Commission were forced to lower its ambitions in the 2001 and 2003 Directives compared with the Green Paper, as a result of opposition coming from the states. Cap-and-trade was controversial and represented a novel measure for the member states, something which led to the basically decentralised approach from 2005-2007.

Despite loopholes in the institutional treaties covering the ETS, the Commission formally only had the power to supervise the national allocation plans in ETS 1, and the nation states remained strong in their influence. Following intergovernmental theory this will be

interpreted as a sign of that the states did not choose to delegate any more responsibilities to the EU-institutions at the time. This in the end can be understood as a member state mean to uphold national influence over the Commission workings in the setup phase. It was not interpreted as in national interests that the Commission should obtain a high level of competences, and the institution's role was thereby restricted.

It is reasonable to believe that if it were not for the strong will of the member states to retain considerable powers in ETS 1, the scheme would have been highly centralised from 2005. The Commission had gathered around the necessary economic and scientific expertise to introduce a harmonised ETS, although it was at the same time carefully emphasised that this would imply a loss of member state decision-making power. While the Commission tried to push for centralisation, the limits to supranational exercise of power was felt, and proportionality and subsidiarity from the Commission was not enough for a centralised approach to be in the member states interests in the pilot phase.

The opinions of the national governments regarding the ETS, and an acceptance of the scheme, can furthermore be claimed to a large degree to have been guided by the interests of national industry in the early phase of the scheme's existence. Whether enterprise and affected stakeholders were on board was of immense importance for the opinions of the states in the ETS. The scheme had to be economically sound in order to be subject to approval from the member states. Taken from this the data makes it clear that the ETS had the possibility to provide the member states with economic utilities in close future compared to other climate measures, and this can be understood as contributing to a member state consent.

Industry in many member states saw the ETS as the most cost-efficient method to reduce GHG-emissions, and it was thereby easier for the national governments to agree to the introduction of emissions trading in such short time span. A pilot phase was also understood as useful in order to get used to trading with emission allowances. This shows that the national domestic influences and preference formation largely contributed to member state opinions, and in the next round influences over the Commission's workings in the ETS 1. Does the data also show that economic interests related to climate gas regulations converged among the states, as is emphasised as central in liberal intergovernmentalism? Based on my findings it would be difficult to draw general conclusions over the different preferences of the states, but the potential for economic utilities in the ETS was undoubtedly important for the early member state acceptance of deeper levels of collaboration in European climate politics.

The fact that the ETS represented a novel principle for the Community combined, with the foreseen challenges with a quick implementation of the 2003 Directive, can be interpreted as not weakening but upholding member state influence over the events. As such the decentralised approach that was finally introduced in ETS 1 can be viewed as a result of member state control over the early phase of the Commission competence expansion. The clearly stepwise character of the process until ETS 2 was decided upon, implying that the states would not see their decision-making power lost, underlines limitations to the Commission's possibilities to expand their competences at the expense of the member states.

### **The facilitation of a more successful EU ETS 2**

The ETS system review starting up in mid-2006 was a requested revision from the Council and the other EU-institutions. The foreseen revision was included in the 2003 Directive. The race-to-the bottom mechanism between the member states leading to substantial over-allocation of allowances for ETS 1 proved itself to cause problems also for the Commission assessments of NAP 2. These and other preliminary challenges for ETS 2 was foreseen by the actors part of the scheme in 2006 and this will, in line with intergovernmental theory, be interpreted as the member states were in need of the Commission's proactive role in the 2006/2007 process. Taken from the data material it can be claimed that it was in the states interest to make some changes to the ETS. The plans made by the Commission secured the cooperation between the states, making sure that the level of cap would be sufficiently low in the 2008-2012 trading period. Can it based on this be found that the member states constituted the *main* influence related to this important step in 2006/2007, and that the agenda over the changes was in line with state interests?

Resource demanding administration of tasks related to the ETS constrained the national governments. In meetings among the states at EU-level in 2006 it was observed that the approaches also to ETS 2 varied between the nation states and were shaped by diverging domestic economic conditions. As such, the call for change in the Commission practice in the second trading period among the member states can be understood as a push for change in the scheme based on a goal of improving national economic prerequisites. Following the logic in intergovernmental theory that the Commission only empowers itself if in member state interests, the challenges with ETS 1 was understood as suboptimal, and solutions from the Commission were seen as welcomed from the member states. Based on this, theoretical assumptions have explanatory power for the member states call for change in Commission



practise for ETS 2. Liberal intergovernmentalism also successfully explains why the Kyoto period was encountered so differently by the states.

When the ETS had already been decided upon and entered into force in 2005, it is reasonable to believe that it was more in member state interests to support a further strengthening of the scheme, than to contribute to more unfair treatments in terms of competition that created challenges for national industries. Even if this implied that decision-making power would be lost to the Commission. All member states have individual Kyoto goals and the Commission was eager on facilitating the possibilities of full compliance with these. A successful ETS 2 would furthermore lead to the member states maximising their own advantages in climate politics (since emissions trading is based on an economic principle giving installations revenues from reducing emissions). Based on these arguments, there is reason to believe that the states foresaw the utility with a strong ETS 2 and were eager on supporting this, given that it was already a measure in place.

In the process surrounding the altering of the cap-setting model in 2006, the Commission assessed the NAPs and returned them to the member state governments. Both rounds of assessments lead to conflict between the Commission and some of the member states. Of these, Germany was the only country that without further protests accepted the increasingly stringent role of the Commission. From this first step in the Commission competence expansion, tensions rose to a peak in late-2006. The Commission was awaiting the reaction from the states, something which underlines that the Commission decisions remained within the overall borders of member state control and aims for ETS 2. Clearer regulations were asked for by the states, and the Commission responded to this pressure for change.

Does the quiet overall acceptance of the altered Commission role from the member states show signs of that the ETS 2 task expansion was perceived more as a 'low-politics' area? The states did not have an important part in the decisions related to the Commission competence expansion in the changing of the cap-setting model, and it was outside the specific request from the Council. However, despite this all changes made were in the interest of the states, and the setting of a common cap was understood as a more technical question best suitable for the Commission to solve. Given that national allocation plans for ETS 2 were formulated by the member states, this will be interpreted as the states upholding the real control over the second trading phase and the Commission's degree of autonomous control over emissions trading was consequently lowered. Therefore, where the Commission's power increased in

ETS 2 this might be understood as not under the strict control of, but in line with the interests of the member states.

Reading from chapter three, the member states were given provisions from the Commission to influence the NAP 2 assessment process in the autumn of 2006 through Comitology. The European institution with this exceeded its role as an arena placed there in order to provide with credible commitments in negotiations over ETS 2 for the member states. However, the member states had requested that some improvements would be made to ETS 2. The Commission therefore saw the need to be in control over some decisions made, and this is what happened. The member states requested many of the changes that happened, and by making the Commission partly proactive the governments facilitated a stronger ETS 2. This confirms intergovernmental postulates of the Commission as primarily reactive in its workings.

To sum up, the member states agreed to and requested that changes would happen to ETS 2. Some of the decisions happened outside state control. Applying intergovernmental explanatory perspectives this will be claimed that happened because the member states understood the changes to the cap more on the technical side, where the preliminary challenges in ETS 1 were imperative to fix in order to facilitate a more successful scheme in the Kyoto period and beyond. The member states therefore agreed to, and it was part of their will, that the Commission changed the cap-setting model in the NAP 2 assessments.

### **The escalation of emissions trading on the European political agenda**

Based on the Commission initiation of the ETS 3 revision this led to that the heads of states in the March 2007 Spring Council discussed and made the 21 per cent goal the EU's ambitious reduction goal towards 2020. Given that the top political level in the EU had not participated in the decision-making process until the revision started up, this indicates that there has been a shift in the political importance of emissions trading in Europe from 2000 to 2007. Can the process of revising the ETS in 2008 be explained by viewing the European nation states as the most important actors, dominating the pace of deeper cooperation in the EU?

With the introduction of the revision phase the decisions taken at the EU-level became even more top-down. But in the preparations for ETS 3 the member states' participation in the decisions-making also increased in scope. The Commissioner for the Environment emphasised how it was the member states through the 2007 and 2008 European Spring

Council's that pushed the revision process forward, and facilitated the preparatory work for the Commission. The states in the aftermath of NAP 2 assessments specifically called for more action, and a strengthening of the Commission capacities in emissions trading. In addition to this, the data shows that the Commission also placed great emphasis on the clear voice from the European Council in the run-up to December 2008. In line with intergovernmental theory the domination of national influences and their power-position can therefore be interpreted as strong in the last stage of the process commencing in the task expansion.

Early decisions taken over ETS 3 were based on among other the requests for even more harmonisation of rules from industry part of the scheme. This gives support to liberal intergovernmental assumptions of national economic interests as central in the determination of member states will in the expansion of emissions trading. Theoretical descriptions does however not provide with any answers as to the changing of the Commission's *modus operandi* and the structuring effect of the institution. Limitations to intergovernmentalism in explaining changed institutional practise and supranational empowerment become visible here, and should therefore be complemented with more actor-centred focuses in order to provide with adequate explanations for the case at hand.

One of the main elements in the 2007 preparation process was the Commission's exploration of the limitations of a European task expansion in the ETS 3 acceptable to the member states. The affected stakeholders were listened to and national influences were in this way important to the Commission consultation process in the preparations for the 2008 Directive. Does this signalise that the voice from the states steered the preparations for deeper cooperation in ETS 3? A simple explanation to that the consultation process and the meetings lead by the BEST-group in 2007 were less controlled by the Commission compared to the previously analysed task expansion is that the member states regained some of the control that had been lost in the NAP 2 revision process.

In line with intergovernmentalism I can draw the conclusion that the states understood the EU-level agenda as strong in the run-up to the decisions taken over ETS 3. This was interpreted as sub-optimal from a power-oriented interstate perspective, and influences were thus attempted to be regained. Governments had come a longer way in their planning in 2007/2008 and the states abilities to be proactive in controlling further developments in emissions trading had increased.

Given that climate change was high on the political agenda in 2008, the intergovernmental push for change led to the adoption of the Climate and Energy Package in a short time span. At the European level, the revision process can be argued to have been of an inter-institutional character in that the involvement of the other EU-institutions was higher. The adoption of the Package was of a more important change for the member states than the developments analysed thus far. Therefore, intergovernmental assumptions focusing on interstate bargaining is expected to fit well with the 2008 process. The agreement over the Package can not be classified as treaty negotiations. However, the strategic interaction of the member states is likely to believe was more obvious as the political priority of the ETS had increased in 2007/2008. Does intergovernmental institutional design explain the final stage of the process where the Commission expanded its competences?

### **Interstate commitments and institutional design**

A successful climate change measure across the Community beyond 2013 can be understood as an interstate commitment among the member states. Although partly outside the focus of this study, energy policy was integrated together with the ETS in a common approach in the Package. Energy politics is an important policy area for the states. The data therefore supports the idea of the member states as more in control of the last stage of the process leading to task expansion, and as will be argued here, this is among other due to the experienced escalation of political importance of the ETS. Climate change had become too important for the national governments to have the EU-institutions develop its competences in emissions trading without their considerable interference.

The data shows that the Commission emphasised the importance of the voice coming from the member states and the European Council for the decision to expand their competence field. This was also confirmed through my interviews where the impression was that DG Clima officials were careful to highlight the involvement of the nation states prior to the proposal for a 2008 task expansion. Some of the member state informants were also eager on emphasising that national governments were in control of the expansion-process, and no significant centralisation had necessarily found place. More common rules have been introduced for ETS 3, but this does not imply more centralisation. Opinions over the task expansion thereby seem to vary depending on whether the informant represented the EU-level or the member states. The states wanted to keep the picture that they were the most powerful in the revision process.

The Commission strongly argued for a centralised cap-setting and allocation process, convincing the member states that the goal they had agreed to in the 2007 Spring Council were in need of higher levels of supranational competences. The Commission through this argumentation managed to take back the position it had taken under the publication of the Green Paper in terms of centralised governance. Would this have been possible without the consent from the member states? Given the intergovernmental characterisation of the Commission as heavily influenced by national interests, it will in line with theoretical assumptions be argued here that the centralised role of the Commission would have been challenging to arrive at without the approval of powerful member states.

The Slovenian Presidency facilitated a first push in the decision-making process in 2008. Together with the European Council's approval of the revised ETS Directive, this underlines the continued domination of the member states throughout the process. Without strong Presidencies, where member state actors decided it was part of their priorities (and preferences) to reach an ambitious ETS by the end of 2008, the quick proceedings would have been a challenge. The statements coming from the March 2008 Council furthermore limited the autonomy of the Commission. There was a strong call from the states that the Commission had to take on more action in the run-up to the decision over ETS 3. Intergovernmentalism remains strong at explaining this member state request for a competence expansion. The climate problem is a challenge that is best solved at EU-level. Based on this the member states exploited the European level in order to provide with measures that will enable the states to reduce emissions also beyond 2013. Given that it is a formulated goal to fight the climate challenge in Europe, it is rational for national governments to have the Commission expand the competences of cap-setting and allocation of allowances. This will make it easier for industry to be part of the scheme as the commitments and the treatments from the EU-level become more credible and fair.

When France took over the Presidency the domination of powerful member states showed itself in full scope. The goal to have the Package adopted within six months did not go against Germany's interests, and this made the negotiation process in late-2008 much easier. Based on this, to what extent does the data material confirm the assumption that the ETS 3 is a result of intentional policy-design coming from these more powerful states? Opposition between member states gave rise to challenges in the negotiations. The fact that groups of countries that protested against the quick decision over the Package were partly overrun in the

decision-making process, gives support to a liberal intergovernmental interpretation over the events.

The European Council actively participated until the Package was adopted. Solving the process by unanimity was more efficient than to have the proposal go through two readings. The states therefore pushed for this so that the EU would have an ambitious Package to bring to COP 15, and the remaining institutions played along. In many ways the process towards the adoption of the Package represented a novel situation in European climate politics. The revised ETS Directive was scaled up on the political agenda, and this was reflected in the increased participation and dominance of the member states. The voice from the states had also increased in scope, as the whole of EU (and not just EU-15), are parties to a new global agreement. Although there was broad support for a Commission task expansion in the early stages of 2008, specific competences were indeed less discussed in the lead-up to the Package adoption. Opposition over this might thus have existed among the states that will not be shown here, the scope of the thesis made this challenging to go into.

To sum up, the member states are rightly depicted as an important influence over the power to make reforms in the ETS happen. At this point intergovernmentalism remains strong in explaining the case. The Commission was acknowledged by member states as the proper institution to make the ETS more successful in trading periods beyond ETS 2, and the EU-level was consequently subject to institutional design in ETS 3. Returning to the hypotheses, it can therefore be confirmed that the task expansion was dominated by national influences, although somewhat more in the preparations for ETS 3 than ETS 2. The competence expansion evident in ETS 3 can be said to have been part of the member states preferences, given that the scheme was already established. The most important developments in the Commission agenda was subject to a strict member state supervision.

## 4.2 European Commission task expansion as an institutional push for improvement

Can the Commission's role and influence over the developments found in emissions trading until the revised Directive was decided upon in 2008 be understood by the application of a new institutional explanatory perspective? Following the argumentation of this thesis the case subject to study here is expected to be best provided for by a complementary perspective.

Furthermore it is argued that decision-making processes in the ETS can alter the distribution of power between the member states and the EU-institutions. The process under scrutiny is complex, and an in-depth study is argued to provide with a more complete picture over the events analysed. Therefore, before a conclusion can be reached the entrepreneurial push for change from the main European supranational institution must be explored.

The Commission is the most important institution separating the EU from a traditional state-system. This makes it interesting to go into this organisational field as a basis for providing with an additional explanatory factor to the considerable take-on of European decision-making power we have witnessed so far in the ETS. The intergovernmental perspective provided for in the previous section lead to findings pointing in direction of an increased influence from the member states from ETS 2 to 3, together with a state-domination over the decentralised approach evident in ETS 1. The rational intergovernmental approach does however not provide with sufficient explanations as to why the data show signs of that the Commission in itself has taken on increased levels of decision-making power in the ETS.

### **Early signs of a Commission political entrepreneurship**

Revisiting one of the main assumptions of the new institutional perspective as it is applied here, institutional forces can lead to the Commission acting beyond the strict delegation coming from the member states in deciding upon policy measures. It will for this study be argued that independent Commission influences and internal agendas contributed to the expansions of competences and the centralisation of power evident over the period studied.

Taken from the data, the self-initiated leadership role by the Commission in the ETS has been obvious from the introduction of emissions trading in 2000. Although partly outside the scope of this thesis, the global stage through particularly the UNFCCC negotiations has sharpened the focus of the Commission related to climate politics. The Commission was at the time of the introduction of the Green Paper seeking a measure to encounter the Kyoto Protocol with. Several factors therefore contributed to that, according to descriptions coming from Commission officials, the ETS was independently decided upon and introduced.

How can the setup of the ETS be understood by the application of an institutional perspective? Theoretical assumptions part of institutionalism points to how the Commission will behave autonomously in developing policy measures like the ETS, where this partly comes from internal structures that drives understandings over the ‘appropriate’ way to

behave when faced with the challenge of climate change. Taken from this expectation, it will be argued that central actors inside the Commission understood trading with emissions as the most satisfactory solution to the challenge with a lowering of GHG-outlets, and achieving full compliance with the Kyoto requirements. Emissions trading were driven forward by a Commission institutional logic, and the ETS was initiated by DG Environment partly outside member state control.

However, in choosing a belonging strategy in the development of the scheme from 2003 onwards the European institution recognised that it was moving in unknown waters. Consequently, when adapting to the ETS a learning-process was emphasised by the Commission as the way it would meet the new challenge of emissions trading, and the process ahead. Taken from this, it will be argued that institutionalism remains strong at explaining the setup of the ETS and the chosen Commission strategy to encounter this new policy-measure. It was by central Commission actors understood as a satisfactory internal strategy to spell out a process of institutional learning for the period following the adoption of the 2003 Directive, given the resistance from some of the member states towards the set-up. This illustrates the Commission as active in the process to promote what they believed in.

The decentralised approach found in the last section as largely shaped by the will of the member states, did not go into Commission's perspectives related to the governance of ETS 1. As outlined in chapter one, when the Commission is assumed to behave like a policy entrepreneur in the ETS, active attempts are made, given that the right conditions are in place, to promote emissions trading on the European political agenda. The situation surrounding the publication of the 2001 Directive enabled the Commission to make emissions trading part of the European agenda. The argumentation set forth by the Commission that it would be of benefit for all relevant stakeholders to start up ETS 1 as soon as possible before the Kyoto-period and then gain from these experiences, will be argued here that strengthens this picture of the institution as an entrepreneur. Plans were made internally and conducted at an early stage to have the ETS a success in future trading periods, and to have a model the Commission could promote on a global basis. The early phase of the ETS will therefore, in accordance with institutionalism and based on the image of a policy entrepreneur, be interpreted as actions set forth by the Commission in order to promote the measure in a short time span. The establishment of the BEST-group where the Commission foresaw the need to strengthen its institutional capacities related to emissions trading gives additional support to



an understanding of the Commission as important *in itself* for a complete understanding of the process leading to ETS 1. The Commission visualised the ETS in a long-term perspective, where competences would be gradually expanded.

The distributions of competences in ETS 1 gave the member states many freedoms. According to the data stating that the Commission understood this partly as something that was offered to the states, can this be interpreted as signs of the Commission retaining significant powers related to the decentralised ETS 1?

The Commission foresaw the challenges with the decentralised way of setting the level of cap in ETS 1, and chapter three underlines how the institutions role was highly coordinating from the start-up of the scheme. In the period commencing the adoption of the 2003 Directive it will, in line with institutional theory, be argued that this coordinating role can be understood as signs of the Commission taking advantage of its scientific competences related to emissions trading to move beyond member state influences and powers already in the pilot phase. Challenges before NAP 2 was decided upon were also remedied largely outside state control. Given theoretical assumptions that the Commission has a goal of increasing its influences over the ETS, the Commission's role as a facilitator and coordinator of the ETS 1 will be interpreted as part of an internal institutional logic. This strengthens institutional explanatory perspectives.

Institutional empowerment in a regulatory policy-field like the ETS was hypothesised that have been conducted step-wise, and consequently the Commission took on few specific competences related to NAP 1 assessments in 2004. Despite this restricted role, the pro-active actions found already from ETS 1 can to some extent be argued to be within the traits of the Commission's institutional role in the Union. The organisational perspective would point to that the only right thing for the Commission to do was to educate the member states in emissions trading. Being the main executive body in the EU and responsible for the introduction of the ETS, it might have been expected from the member states and stakeholders that the Commission would be pro-active also in the process of formulating NAP 1. The gradual task expansion visible already from ETS 1 will therefore be argued that was facilitated by the highly supranational character of the ETS as a measure best solved at a policy-level above national government level. No state can solve the climate challenge by itself, and structural conditions in this way supported the supranational work of the

Commission. When the Commission decided it should prioritise climate change and succeed with the ETS this challenged member state dominance over the field.

### **An institutional learning process starting up in the NAP 2 assessments**

By the time of the Commission publication of the December 2005 Communication stating that ETS 2 had to be altered in several respects, it will be argued here that this represented the first step in a Commission institutional learning process. Chapter three showed that the initiative to provide with more detailed assessment methods was also influenced by the member states through the Council. Intergovernmental theory however falls short of explaining the mechanisms leading to internal Commission realisations that the second trading period should be different from ETS 1. Can I arrive at credible explanations over this with the application of institutionalism?

The decision to use member state levels of cap in order to arrive at a harmonised cap-setting model in 2006 can be seen as a decision taken based on learning and experiences for the Commission. Independent initiatives over a changed practise for NAP 2, and decisions taken partly outside member state control is reasonable to believe that would have been demanding to introduce for the Commission had it not been for the experiences gathered until December 2005. The challenges in ETS 1 constituted a new experience for the Commission related to climate governance, and this confirmed the image Commission actors had of more harmonised rules as the key for a more successful ETS 2. In fact, the data indicates that the Commission were left with little choice but to expand its competence field. However, Commission sources indicated how persuasive action was taken to convince the states that the only solution to a more successful ETS was an increase in the Commission's power. This corroborates assumptions part of the supranational perspective, depicting how the presence of the Commission in the decision-making process will structure the outcomes.

As seen in the data, the Commission arrived at the conclusion to change its practise in 2006 based on own experiences, outside member state dominance. The many decisions taken after the adoption of the 2003 Directive were also a result of learning gathered as the scheme developed. This gives power to institutionalism, emphasising the centrality of Commission's internal life and dynamic in the process towards the task expansion in 2008. The engagement of Commissioner Dimas underlines how the Commission seemed internally united over the decisions taken related to NAP 2. This empowered the Commission's use of internal routines

in pushing the process forward. The basis for supranational action related to the NAP's for ETS 2 will therefore be interpreted as internal Commission mechanisms prescribing how it would be appropriate to respond to the challenges with a considerable decentralisation of tasks in ETS 1.

In the first initiation of the ETS the system was introduced as centralised. This idea of harmonisation as a precondition for that the ETS should lead to environmental benefits, is reasonable to believe that was arrived at based on normative foundations in the Commission. The institutions goal of being the main executive in the system contributed to an internal push for harmonisation over the period studied. It was the Commission that established the ETS, and decision-makers in the Commission independently introduced new methods in order to make the ETS work. Employing institutionalism this understanding therefore contributes to a more thorough picture of the process in 2006/2007.

As for the Commission's methods of proceedings, the process commencing in NAP 2 differed from ETS 1 in some essential matters. There were opposing demands from national governments over what role the institution should have in the assessment process, and the result was a strengthening of the Commission's position. The data furthermore underlines how transparency in the process was emphasised as central from DG Environment officials. But does this give ground for claiming that internal Commission processes influenced the decisions taken to a larger degree, compared to ETS 1 procedures? The data indicates that the decisions reached in 2006/2007 were indeed more a result of internal decision-making procedures compared to the pilot phase. Had it not been for the verified emission numbers published in May 2006, it would have been demanding for the Commission to expose the member states of harsh treatments related to NAP 2, and partly overrule the voice from the Climate Change Committee. Combined with the advantage the EU-level had of its longer time with planning over the ETS, this gives support to an argument of that the Commission had in 2006 increasingly taken on a life on its own in emissions trading governance. This was supported by its altered *modus operandi*, based on learning and experiences.

In sum, the supranational mechanisms were clearly at work from 2005, and institutionalism remains strong at explaining why the Commission outside member state control decided to take on power to make decisions in ETS 2, and set the EU-wide cap. The data makes it clear that the challenge with a high number of member states in Comitology, and interests pointing

in opposing directions, lead to a lowering of the intergovernmental voice that provided the Commission with further possibilities to be the dominant actor.

### **The first step in a Commission institutional feedback mechanism**

To what extent did challenges to ETS in 2006 trigger structural mechanisms at EU-level, as a first step in an institutional feedback process hypothesised to commence in the considerable change in division of power in ETS 3? The data shows that the Commission's workings had come a longer way in 2006 compared to the member states. Based on experiences from assessing NAP 1 the Commission gathered around the necessary information to make ETS 2 more fair for industries taking part in the scheme.

NAP 2 assessments strengthened the ETS as a system. The argument set forth here is that the policy-process resulting in the altered cap-setting model by the Commission created a European institutional foundation to introduce important changes also in the periods to commence ETS 2. Chapter three makes it clear how the member states, together with the EU-level, in the situation with serious challenges threatening the schemes existence, understood it as easier to build upon the already introduced scheme, than to establish a new climate measure that would constitute considerable barriers to entry for the member states compared to the EU ETS. ETS 2 will therefore be understood as a trajectory development, interpreted as the beginning of a Commission institutional feedback mechanism, unfolding itself more clearly in the 2007/2008 process.

### **Achieving continuity and a centralisation of competences in EU ETS 3**

As seen in chapter three, the Commission considerably centralised its power related to specific tasks with the introduction of the 2008 Directive. The analysis of the expansion process in light of intergovernmentalism largely excluded the picture of the ETS as an institutional, irreversible process empowered in its own right. Therefore, when applying postulates part of new institutionalism, I need to investigate if the last stage of the process towards the Commission task expansion confirms a picture of institutional sources as central for the increase in the EU-level agenda and decision-making power in emissions trading. To what extend can the Commission's workings in the events leading up to late-2008 be explained by an institutional feedback mechanism?

The Commission through the Communication published in January 2007 continued to push for changes in ETS 3. Experiences gathered underlined what had been anticipated concerning

challenges with a decentralised approach, and the proceedings until the start-up of the revision process did therefore not challenge Commission internal dynamics over the agenda already in place. In fact, a stepwise development was part of the Commission long term plan to make the ETS a solely *European* policy measure. Institutional theory would depict the Commission as an actor utilising the right political conditions to be able to expand their agenda and improve the scheme. The 2007 Communication and push from Dimas contained suggestions for achieving this, and according to Commission formulations the period prior to December 2008 was interpreted as a unique opportunity for the Union to achieve the desired continuity in the scheme. This can in the end be explained by the assumption of DG Environment's internal workings as important in the move towards greater harmonisation.

When the Commission expanded its competences in ETS 3 it will, in line with new institutionalism be argued here that the institution increasingly took on a life on its own, with the result that it was easier to drive forward the considerable changes. The engagement of Barroso facilitated the work for DG Environment. To be internally united across the DG's and with the support from all Commission levels, this also facilitated the institution's strong position. Chapter three underlined how this advantage was combined with a pressure for change towards the Commission from many actor levels. Rather than interpreting this as an obstacle it will be argued here that this inter-institutional pressure reinforced Commission organisational traits and methods of proceedings. It will be challenging for me to arrive at any definite conclusions of whether Commission opinions regarding the centralisation of ETS came from shared cognitive maps across DG Environment. Despite this, the internal Commission climate to change their practise in the third period of trading was undoubtedly of vital importance for the expansion. There was a strong pressure from the Commission to have the revised Directive adopted in late-2008. This strengthens institutionalism.

The impact assessment worked out by the Commission as a basis for the proposal it made in January 2008, shows how a more thorough work was done for ETS 3 compared to the two previous periods. Does the evidence from the data of the Commission pushing the member states into a common agreement of their agenda, confirm institutional assumptions? Some of the informants argued for a stable and unchanged Commission *modus operandi* throughout the period under study. The documents and secondary sources however points to other conclusions. It seems, based on this study that the Commission were much more eager on making the process visible to member states and stakeholders in the revision process,

compared to when NAP 2 was decided upon. Whether this comes from a Council pressure or Commission internal realisations that it had to be more open is difficult to conclude upon. What is evident is that this increased focus on managing the scheme into success is derived from a Commission adaptation to changing environments, where climate change was higher on the public agenda in 2008. COP 15 was also only one year ahead in time. The changes found in ETS 3 were broader in scope. This might explain some of the changes to the Commission's methods of proceedings in 2007/2008.

The structuring and empowered role of the Commission showed itself in full scope in the final stage before the adoption of the Package in December 2008. By the time of the approval of the revised ETS by the other EU-institutions, the Commission had gone a long way in improving its abilities to manage the scheme efficiently, at the expense of the member states. The institutional feedback related to specific competences introduced in 2006, made it easier for the Commission to constitute part of the pressure that was created to agree on the revised ETS in a short time span. The exclusion of discussions related to detailed design-elements will be interpreted as choices taken from the entrepreneurial Commission. Barroso together with the Commissioners for Environment wanted to make the process a quick one: Personal leadership therefore pushed forward the voice of the Commission. The surroundings had changed in 2008, and the Commission responded to this by expanding in scope. Therefore, institutionalism successfully explains how the Commission managed to have the Package adopted in such short time span. Without the push for change from the Commission, the process would have been longer and included more detailed discussions over specific design elements.

To sum up, it will be argued that through the independent initiation of the ETS the Commission created the necessary foundation for being proactive already from the setup phase. NAP 2 was assessed based on learning from ETS 1, and a Commission internal logic largely drove forward this first step towards the task expansion. Through the Commission institutional empowerment in ETS 3, the data verifies theoretical postulates part of institutionalism depicting how ideas about appropriate behaviour will guide the choices made. By 2007/2008 the developments had gone further in directions of an understanding in the Commission that the right way to proceed in ETS 3 would be through a centralisation of power. It has in this section been argued that this happened as a result of previous experiences and an institutional feedback mechanism coming from ETS 1 and 2.

Revisiting the hypotheses the analysis therefore confirms the picture of the Commission as a policy entrepreneur, this has been a constant factor from the Green Paper to the adoption of the revised ETS Directive. The scheme had, in power of being independently initiated, some trajectory mechanisms linked to it, contributing to the harmonised ETS 3. The institutional feedback also reinforced the final step towards the task expansion, and was facilitated by the advantage the Commission had of an independent administration working to improve the ETS. Had it not been for the decisions taken partly outside member state control in 2006 it would have been difficult for the Commission to centralise all significant competences in ETS 3. The learning curve for the Commission was in place, facilitated by its planned and evidently *incremental* expansion of tasks on behalf of the member states. With these words a conclusion is next.

## 5. Conclusion

I have in this thesis conducted a theoretical interpretative case study on the Commission task expansion in EU emissions trading, from the first introduction of the scheme until the adoption of the revised ETS Directive. The topic has been a study of the European level institutional work in one central climate measure. Taken from this, I formulated the problem statement to be how the Commission competence expansion from ETS 1 to 3 best can be understood. The detailed questions subject to investigation was founded in theoretical perspectives. More specifically, I have investigated whether the competence expansion has been pushed forward by the member states, or if it is the result of supranational institutional influences coming from the Commission.

The empirical findings have yielded with partly concurrent, partly complementing results. Applying the intergovernmental perspective, I found that the member states were able to uphold the decentralised approach to ETS 1. Due to structural characteristics part of the principle of emissions trading, the nation states have explored the best way to utilise the European level to reduce climate gas emissions and comply with the Kyoto Protocol. The Commission has, throughout the expansion period, provided credible commitments in the cooperation between the states. The institution took on some decision-making power at the expense of the member states in both steps towards the task expansion, and the state's role as primary actors have varied somewhat over the period studied. However, a harmonisation of tasks in ETS 3 was part of member state preferences and a result of institutional design. The states demanded that the third period should be considerably altered, and this contributed to the task expansion. Hypothesis one and two can therefore be partly confirmed.

Going into the NAP 2 process, my data gave grounds for conflicting results. In an intergovernmental perspective the Commission was interpreted as largely reactive in its response to improve ETS 2. In light of new institutionalism the centralised cap-setting model for NAP 2 was found to be a result of internal routines and can also be said to be the first step in a Commission institutional learning process. The application of institutionalism furthermore showed that the Commission at an early stage planned a gradual expansion of the scheme towards ETS 3. The work of the Commission had, when deciding upon the revised 2008 ET Directive, become more open with an increased focus on management. In the process of accomplishing this incremental competence expansion, the learning curve from



ETS 1 and 2 and the Commission institutional feedback mechanism has been important. This leads to an acceptance of hypothesis three and four.

The description of the Commission as a policy entrepreneur has been one of the key conceptual premises in my study. Compared to the other EU-institutions and the member states, the Commission has an administration through the DG's providing with constant, and during the last decade, increasing attention to the challenge of reducing GHG-outlets. This administrative support has a more policy developing position than for instance the Council Secretariat. Consequently, DG Environment has throughout the period worked with emissions trading with a larger capacity and in a more pro-active manner than most member states (as well as the other EU-institutions). This has strengthened the Commission's possibilities to develop the ETS ahead of national governments, and gives support to the image of the institution as an entrepreneur. In fact, without this internal capacity it would have been difficult for the Commission to increase its decision-making power at the expense of member states sovereignty to the degree shown in this study. This observation makes the explanatory power of new institutionalism clear. The value of this perspective for my case is the increased understanding it gives when it comes to the Commission's institutional capacity as a decisive factor for that ETS 3 has turned into the solely European measure that was planned from the setup.

Intergovernmentalism can be concluded to have successfully shed light upon the position of the member states. If it were not for the nation states agreement over the introduction of emissions trading in the Union, and the clear voice from some of the states in the last stage of the process towards December 2008, the competence expansion and Commission empowerment would have been considerably lower. This makes intergovernmentalism an inevitable explanatory perspective in order to understand the case. However, there are still some aspects of the member state participation not covered for here. This would come as no surprise as day-to-day politics is not the main focus of explanation for intergovernmentalism.

Even if the aim of this study only has been to use the theoretical framework to achieve an understanding of the case, improvements in explanatory perspectives can be made. A complex actor perspective influencing the work of the Commission (that reaches beyond the scope of liberal intergovernmentalism), has due to delimitations largely been left out of this thesis. Both governmental and non-governmental actors have a say in the decisions taken by the Commission, and multilevel governance would provide with additional explanatory power to

this influence over supranational workings of the Commission. The increased interdependency between the member states in climate questions is not sufficiently covered by intergovernmentalism. There is reason to believe that there is also a growing dependency from the Commission on a variety of non-governmental actors in emissions trading, as the Commission has expanded its involvement in different areas of the ETS in the third period. The scope of this thesis made this challenging to go into.

The importance of direct contact with the administrations in the member states in the process of expanding its field of competences, would add further to knowledge to the field of European executive politics in European emissions trading. Supplementing theoretical perspectives would give both a deeper and wider understanding of the process. The sub-national level is increasingly participating in Comitology-meetings in the Commission, making this perspective important to include. A larger study on the process of developments from ETS 1 to 3, seen from the perspective of the European level, could go into the influence from this broadened category of ETS-actors.

Can this thesis provide new information to studies over the ETS? The data has gone deep into the material, and my findings in this way add to knowledge already available over European emissions trading. Limitations to the study will however exist. Achieving a complete picture of the ETS 3 competence expansion would require a study of the process commencing December 2008 as many decisions for ETS 3 were taken after this. The process where the Commission has been active in climate politics (and ascending from this; emissions trading) also dates back to periods before 2000.

It must be recognised that the analysis of my case in light of the two chosen frameworks and only one EU-institution, might bring some bias into this study. The scope of explanatory perspectives and the full range of independent variables that could be presented in order to grasp the Commission's changed role, might therefore be restricted. The other European institutions have participated in the ETS process under study. An exclusion of these was necessary in order to go in sufficient depth on the role of the Commission. The benefit of this is the increased understanding of the Commission's workings this study contributes to.

### **The European Commission as an engine for supranational climate policy**

Returning to the question posed in the title of this study, can the Commission rightly be described as the pusher for deeper cooperation and higher levels of vertical integration in

European climate politics? Taken from chapter three and four the answer would be yes, but within an overall member state consent. The period investigated has considerably changed the ETS. The task expansion has also lead to an empowerment of the institutional capacities in the Commission administrative parts dealing with climate change. This has broader implications for the EU as a whole. The signals centralisation of power within one specific policy field communicates, contributes to an image of the Union as increasingly supranational.

Is a study of the Commission then the right point of departure for deeper understandings of governance aspects related to the ETS? Given the institutions independent initiative of the scheme and important role as manager, the Commission's role will, as shown in this study, be vital also beyond 2020. Some aspects of the overall governance picture related to the ETS governance have however changed during the recent years, and should be included in a future larger study of the system. After the signing of the Lisbon Treaty, we have seen the introduction of permanent Presidencies in the EU. The European Council has increasingly been included in the decisions taken in European climate politics. We now therefore have a square instead of an institutional triangle in deciding upon and influencing the ETS. Based on this, it has not yet been completely decided what decisions that should be taken by national ministers in the Council, and what decisions should be taken by the heads of states in the European Council. In the developments towards 2050 it is likely to believe that the role of the European Council in climate politics will increase in importance, and an inclusion of this aspect would have been a natural extension of this investigation.

## Interviews

Interviewee	Position	Place/time
Peer Stiansen	Senior Advisor, Norwegian Ministry of the Environment	Oslo, January 26 2011
Dag Svarstad	Advisor, Norwegian Ministry of the Environment	Oslo, January 26 2011
Anne Therese Gullberg	Senior Research Fellow, Centre for International Climate and Environmental Research (Cicero)	Oslo, January 27 2011
Agnethe Dahl	Head of Department, Norwegian Ministry of the Environment	Oslo, February 3 2011
Knut Kroepelien	Norwegian Counsellor for Environment to the European Union	Brussels, February 15 2011
Claire Koeniguer	Senior Officer, EFTA Surveillance Authority	Brussels, February 15 2011
Yvon Slingenberg	Head of Department, DG Climate Action	Brussels, February 16 2011
Polona Gregorin	Policy Officer, DG Climate Action	Brussels, February 16 2011

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